

(AR-18J)

November 5, 2004

G. Vinson Hellwig,
Chief, Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909

Dear Mr. Hellwig:

On July 21 and 22, 2003, the United States Environmental Protection Agency (USEPA) conducted an on-site evaluation of the Michigan Department of Environmental Quality's (MDEQ's) Title V operating permit program. This review was initiated as a result of USEPA's commitment to USEPA's Inspector General to carry out Title V program evaluations nationwide. Enclosed you will find a copy of our final report.

Based on the program elements included in this review, USEPA believes that MDEQ is running a strong Title V operating permit program, particularly with respect to prioritizing permit program workloads, expecting accountability from staff and management, and continually improving regulations, program guidance, procedures, and forms. MDEQ has developed detailed program resources and tools for implementing and managing the program. However, MDEQ still faces the ongoing challenges of the Title V program, including timely issuing permit actions, incorporating complex new requirements into permits, maintaining adequate Title V funding, and addressing data management needs. Please refer to the final report for USEPA's detailed findings.

We would like to thank you and your staff for your assistance with this evaluation, including the review of program evaluation documents to ensure they accurately reflect MDEQ's Title V program requirements. We especially appreciate the efforts of Jerry Avery, Paul Collins, Joanne Foy, and Heidi Hollenbach,

whose program expertise and willingness to work with us were integral to this project. If you have any questions, please contact me, or have your staff contact Beth Valenziano at (312) 886-2703.

Sincerely yours,

/s/ George Czerniak for

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Steve Hitte, Operating Permits Group
Office of Air Quality Planning and Standards C304-04

Steven Chester, Director, MDEQ

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Title V Program Evaluation
Report:
Michigan Department of Environmental Quality

USEPA Region 5
November 5, 2004

Table of Contents

I. Executive Summary.....	1
II. Introduction.....	2
III. Program Description.....	3
IV. Findings.....	3
A. Strengths, Program Benefits, and “Good News Stories”.....	3
B. Challenges.....	5
V. Recommendations.....	6
VI. State Recommendations.....	6
Appendix A- Title V Program Evaluation Questionnaire	
A. Title V Permit Preparation and Content.....	1
B. General Permits.....	10
C. Monitoring.....	11
D. Public Participation and Affected State Review.....	13
E. Permit Issuance / Revision / Renewal.....	25
F. Compliance.....	33
G. Resources & Internal Management Support.....	41
H. Title V Benefits.....	49
Appendix B- Title V Program Evaluation Document Review Questionnaire	
A. Scope of review.....	1
B. What to look for in applications.....	1
C. What to look for in permits.....	7
D. What to look for in the statement of basis.....	18

I. Executive Summary

In 2003, the United States Environmental Protection Agency (USEPA) conducted an evaluation of the Michigan Department of Environmental Quality's (MDEQ's) Title V operating permit program. This evaluation is part of USEPA's ongoing Title V program oversight of state and local Title V operating permit programs. Based on the program elements included in this review, USEPA found that MDEQ is running a strong Title V operating permit program. MDEQ demonstrates its commitment to implementing the Title V program by prioritizing permit program workloads, expecting accountability from staff and management, and continually improving regulations, program guidance, procedures, and forms. MDEQ has developed detailed program resources and tools for implementing and managing the program.

The Title V operating permit program has resulted in many benefits for MDEQ's air program, including: increased staff knowledge of Clean Air Act requirements, improved knowledge of sources and source operations, more accurate emissions information, emission reductions due to sources limiting emissions to avoid the Title V program or to reduce fees, clearer New Source Review Permits to Install documentation and permitting, increased compliance information, increased source awareness of compliance obligations, and improved public outreach and public access to information.

However, MDEQ still faces the ongoing challenges of implementing the Title V program, including timely issuing permit actions, incorporating complex new requirements into permits, maintaining adequate Title V funding, and addressing data management needs. In addition, MDEQ noted the following concerns with the national Title V program: the difficulty of incorporating Maximum Achievable Control Technology (MACT) standards into Title V permits; the lack of action on certain USEPA enforcement cases, inspections, and applicability determinations for sources with pending Title V permit actions; the role of USEPA in ensuring that states maintain adequate program funding; and the Part 70 minor permit modification procedures.

II. Introduction

As part of USEPA's ongoing Title V operating permit program oversight¹, and as a result of USEPA's commitment to the USEPA Inspector General, USEPA developed a standard program evaluation protocol for reviewing Title V programs nationwide. USEPA committed to reviewing state and local Title V permit programs within 4 years².

The purpose of the program evaluation is to meet with each permitting authority to evaluate its implementation of the operating permit program, note practices from which other permitting authorities could learn, document areas needing improvement, and learn how USEPA can help permitting authorities and further improve the national program. USEPA hopes the evaluation results will identify areas where the national program can be improved, areas where the state programs can be improved, and areas where state and local permitting authorities' unique practices may be of benefit to other permitting authorities.

The standard program evaluation protocol consists of a detailed program questionnaire and a file review questionnaire. The completed Michigan questionnaires are the result of a joint collaboration between USEPA and MDEQ, and are included in this report as Appendices A and B. USEPA provided an advance copy of the evaluation protocol to MDEQ in preparation for the program review. USEPA drafted responses to the program questionnaire based on the Agency's knowledge of MDEQ's program, and highlighted areas of the questionnaire that USEPA wanted to focus on during the on-site program evaluation. For the file review questionnaire, USEPA identified specific source categories of interest, and asked MDEQ to have source files meeting those criteria available for the on-site program evaluation. USEPA held the on-site evaluation in MDEQ's central office in Lansing, Michigan, on July 21 and 22, 2003. During the visit, USEPA³ met with MDEQ program managers and Title V staff to discuss USEPA's preliminary program questionnaire responses, gather additional information for the questionnaire, and begin the source specific file review. USEPA also asked MDEQ to highlight any concerns with the national Title V program: this feedback is summarized in Section VI of the report. As USEPA developed the final program evaluation report, the Agency sought additional input from MDEQ to ensure accuracy of the final product.

¹See 40 Code of Federal Regulations (CFR) 70.10.

²USEPA committed to review all Title V programs with more than 10 Title V sources by fiscal year 2006.

³USEPA's Title V program evaluation team included permit program management, staff responsible for Michigan Title V program oversight, and staff responsible for overseeing the Region's Title V program evaluations.

III. Program Description

Pursuant to Title V of the Clean Air Act and the implementing regulations at 40 CFR Part 70, state and local permitting authorities developed, and submitted to USEPA for approval, programs for issuing operating permits to all major stationary sources and to certain other sources. USEPA initially granted interim approval to Michigan's Title V program, which became effective on February 10, 1997 (62 FR 1387). Based on the interim approval corrections that Michigan subsequently submitted, USEPA granted full approval of the Michigan Title V program, effective November 30, 2001 (66 FR 62949). On December 11, 2001, USEPA published a Notice of Program Deficiency (NOD) for Michigan's Title V program because of a permit shield issue (66 FR 64038). USEPA subsequently granted full approval of Michigan's NOD correction, effective December 10, 2003 (68 FR 63735).

MDEQ's Air Quality Division is responsible for implementing Michigan's Title V operating permit program. MDEQ's Title V program is decentralized, with eight District Offices and two Field Offices that are responsible for issuing Title V permits. The District and Field Offices report to the Field Operations Supervisor in MDEQ's Central Office, and all offices work closely together to implement the Title V program. In July 2003, MDEQ had 72 District permit writers on staff, with approximately 60% of these 72 FTEs dedicated to Title V activities. In July 2003, Michigan had approximately 470 Title V sources.

IV. Findings

Below is a summary of the primary findings from the Michigan Title V program evaluation. For detailed information regarding Michigan's program, please refer to the program and document review questionnaires in Appendices A and B.

A. Strengths, Program Benefits, and "Good News Stories"

In addition to highlighting Michigan's program strengths, this section includes specific examples of practices from which other permitting authorities could learn, as well as a summary of the benefits Title V has afforded Michigan's air program.

- ▶ MDEQ demonstrates a willingness to continually improve its operating permit program, and has initiated updates to many program components, including forms, permit format, guidance documents, information technology, and public Internet access. For example, MDEQ's revised application forms are more user friendly and efficient than previous forms, consolidating information and requiring more relevant information than the original forms. In addition, the forms include an innovative approach that allows sources to cite specific applicable requirements from New

Source Review Permits to Install (NSR/PTI's⁴) and Title V permits, making it easy for sources to rely on the information in current permits while maintaining clear and concise permit application information. MDEQ has also fostered a positive working relationship with USEPA by keeping Region 5 informed about Title V program development and implementation activities, and by regularly seeking USEPA's input.

- ▶ MDEQ has developed thorough, detailed program documentation for District permit writers, as well as outreach materials for sources. District permit writers have extensive written and electronic information at their disposal, including technical resources, permit program implementation guidance, permit and permit related document templates, and step-by-step permit issuance procedures. For example, MDEQ's public participation procedures offer step-by-step permit issuance guidance for District permit writers, and ensure that MDEQ's decentralized program operates consistently. MDEQ's Environmental Science and Services Division (ESSD) has developed many valuable tools and outreach materials for Title V sources, and also holds regularly scheduled workshops throughout the State. ESSD's more recent outreach materials and workshops address MDEQ's electronic application process as well as sources' obligations after they receive their Title V permit (reporting requirements, annual compliance certifications, permit modifications, etc.).
- ▶ MDEQ's permit tracking tools help Michigan manage and prioritize the permit program workload. "ROP Toolkit"⁵- MDEQ's primary Title V data management system- provides key permit issuance tracking information on a source by source basis, and can be queried to generate specific reports. MDEQ also maintains additional tracking information as necessary to help manage and prioritize permitting activities. For example, MDEQ closely tracks the status of initial permits that MDEQ has not yet issued. MDEQ also tracks related activities that may affect Title V permit issuance, such as NSR/PTI actions and enforcement activities, to ensure that these related activities are prioritized and that District permit staff are kept up to date. MDEQ also tracks information necessary for following up on post-permit issuance activities, such as semiannual monitoring and deviation reports, annual compliance certifications, and permit renewal applications.
- ▶ Although MDEQ still has 6 initial operating permit applications to process as of August 1, 2004, MDEQ's District Offices and District staff have risen to the challenge of addressing Title V workloads as well as additional District responsibilities. As of

⁴Throughout this document, the term "NSR/PTI" encompasses a broad reference to any Michigan construction permit, including major and minor NSR.

⁵The Title V permit program is called the Renewable Operating Permit (ROP) Program in Michigan.

January 30, 2004, MDEQ has issued 438 initial Title V permits, 22 renewal permits, 18 significant permit modifications, 40 minor permit modifications, and 68 administrative permit amendments. In fiscal year 2003, MDEQ District staff also reviewed 100% of the Title V semiannual monitoring and deviation reports and annual compliance certifications, conducted 989 level 2 inspections (305 at Title V sources), followed up on 1,403 citizen complaints, issued 545 Letters of Violation, and quality assured 58% of all emission inventory reports.

- ▶ MDEQ has developed an innovative solution to longstanding NSR/PTI and Title V permit interface issues, resulting in comprehensive, administratively combined permits that clearly delineate the separate NSR/PTI and Title V permits and the separate permit program authorities. Michigan's combined permit solution ensures that NSR/PTI conditions cannot be changed or superseded by the Title V permit, while providing a clear and comprehensive integrated permit system.
- ▶ The Title V operating permit program has resulted in many benefits for MDEQ's air program, including: increased staff knowledge of Clean Air Act requirements, improved knowledge of sources and source operations, more accurate emissions information, emission reductions due to sources limiting emissions to avoid the Title V program or to reduce fees, clearer NSR/PTI documentation and permitting, increased compliance information, increased source awareness of compliance obligations, and improved public outreach and public access to information.

B. Challenges

- ▶ Although MDEQ has made great progress in reducing its initial Title V permit backlog, MDEQ needs to continue to be diligent with its permit activities in order to complete the remaining initial permits and to avoid future backlog issues. In addition to the 6 remaining initial permits, MDEQ's workload also includes permitting new Title V sources, issuing permit renewals, modifying existing permits as necessary, and reviewing deviation reports and compliance certifications.
- ▶ MDEQ still faces the ongoing challenges of implementing the Title V program, particularly with respect to incorporating complex new requirements into permits, maintaining adequate Title V funding, and addressing data management needs. For example:

There are many complex Maximum Achievable Control Technology (MACT) standards which provide numerous compliance options and alternative requirements requiring a high level of technical expertise to incorporate into a permit.

Michigan's current statutory fee structure is in effect through September 2005. As part of the fee reauthorization process, Michigan will need to ensure that the fees will be sufficient to cover the Part 70 program costs for the duration of the next fee cycle (typically 3-4 years, as established by Michigan law).

MDEQ's long term data management goals include updating the Title V data management system and integrating it with data from other programs such as NSR/PTI, the emission inventory, and enforcement.

V. Recommendations

- ▶ The key for MDEQ to continue to implement a quality Title V program and to address the challenges of issuing timely permit actions, maintaining technical permit writing and regulatory expertise, and addressing data management needs is to maintain adequate Title V funding. USEPA supports MDEQ's efforts to reauthorize its Title V fees for Fiscal Year 2006 and beyond, and to ensure that Michigan's Title V fees are sufficient to cover the costs of the operating permit program.

VI. State Recommendations

During USEPA's on-site program evaluation in Lansing, Michigan, on July 21 and 22, 2003, USEPA asked MDEQ to highlight any concerns with the national Title V program: MDEQ's feedback is summarized here. USEPA Region 5 will follow up within the Region and with USEPA Headquarters to raise these issues and to provide a response to MDEQ's concerns.

- ▶ The complexity of Maximum Achievable Control Technology (MACT) standards makes it difficult to incorporate the requirements into Title V permits, and continues to be a problem for District permit writers. It is very difficult to capture the MACT requirements in permits, and to determine the appropriate balance between including sufficient detail in the permit and cross-referencing the standard. MACT rules can be very voluminous, and applicability requirements are not always clear. In addition, MACTs offer numerous compliance options- all of which sources want included in their permits regardless of whether they use the different options. In one example, MDEQ noted the Boat Manufacturing MACT, Subpart VVVV, which requires the use of multi-variable equations to assess compliance instead of straightforward emission limits that could be more easily incorporated into permits.
- ▶ With respect to USEPA's compliance and enforcement program, MDEQ would like to see more timely action on USEPA enforcement cases and inspections, and on USEPA's New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAP) applicability determinations. These issues impact permit issuance, as the permits may need to include schedules

of compliance for noncomplying sources, or additional NSPS/NESHAP requirements. For example, USEPA took 18 months to issue a MACT and Title V applicability determination for a pharmaceutical manufacturer. USEPA's NSPS applicability determination for a landfill was delayed for months. In another case, USEPA's enforcement staff wanted MDEQ to delay issuing a Title V permit to a source that USEPA had inspected in the spring of 2002, but had not completed reviewing. After notifying USEPA enforcement staff, MDEQ finally proceeded with issuing the permit in the spring of 2003, without a final enforcement determination from USEPA.

- ▶ MDEQ suggests that one of the most important ways USEPA can support State Title V programs is to ensure that States maintain adequate funding. MDEQ supports USEPA Title V audits, including fee adequacy audits.
- ▶ MDEQ has found that the minor modification procedure, which is intended to incorporate a source's proposed permit changes, does not work well in practice. Typically, sources do not include adequate permit content provisions in their applications, making it necessary for MDEQ to redraft the permit modifications.⁶ MDEQ recommends that USEPA reconsider permit modification processes that rely on sources proposing their own permit conditions.
- ▶ MDEQ suggests that USEPA provide grants for within-State training workshops. The grants would be used to hire experts to provide the training. In addition, providing the training within-State would allow more staff to attend. This approach would be similar to the Lake Michigan Air Directors' Consortium-sponsored training, which uses USEPA grant resources to contract with training providers. Such workshops could include inspector training, industry-specific training such as coating facilities, Compliance Assurance Monitoring training.

⁶MDEQ has developed innovative minor modification procedures to address some of the issues. For example, MDEQ has worked with USEPA to trigger USEPA's 45-day review upon receipt of MDEQ's proposed minor permit modification and not a source's permit application. In addition, MDEQ's Title V permit format and NSR/PTI permit format are similar, allowing a minor Title V permit modification application to reference the specific minor NSR/PTI conditions to be incorporated into the Title V permit.

Appendix A
Title V Program Evaluation
Questionnaire

Michigan Department of Environmental Quality

November 5, 2004

Appendix A

A. Title V Permit Preparation and Content

1. What % of your initial applications contained sufficient information so the permit could be drafted without seeking additional information? What efforts were taken to improve quality of applications if this % was low?

MDEQ estimates that over 90% of initial permit applications were missing some information. Common application shortcomings included failing to list all applicable requirements and all associated monitoring. To improve the quality of the applications, MDEQ revised the application forms in the spring of 2003 to make them more user friendly and more straightforward to complete than previous forms. The forms include detailed instructions, and the electronic version of the application includes a users guide as part of the software. In addition, MDEQ's Environmental Science and Services Division (ESSD) has developed extensive guidance for filling out the new electronic forms, including the April 2003 "PASS-ROP Workbook: A Practical Guide to Completing an Electronic Renewable Operating Permit Application". ESSD also hosts monthly permit workshops throughout the State. To address Title V monitoring requirements, including permit application content, MDEQ developed its April 11, 1997 guidance, "Procedure for Evaluating Periodic Monitoring Submittals," and further developed monitoring requirements as applicable through the New Source Review Permit to Install (NSR/PTI) program. MDEQ reports that the renewal application submittals are much improved over the initial submittals.

2. For those Title V sources with an application on file, do you require the sources to update their applications in a timely fashion if a significant amount of time has passed between application submittal and the time you draft the permit?

Michigan Rule 210(2) and (3) require application updates if the application contains omissions, incorrect information, is out of date, or if MDEQ requests additional information. The requirement to update applications is not based solely on the amount of time between the submittal of the application and the drafting of the permit.

- a. Do you require a new compliance certification?

Rule 210(2) requires all application submittals to include a compliance certification. Section 5507(1)(e) of Michigan's Natural Resources and Environmental Protection Act also requires application submittals to include a certification of truth, accuracy and completeness. The compliance certification is incorporated into forms AR-001 and AR-002. The certification of truth, accuracy, and completeness is found in form C-001.

3. Do you verify that the source is in compliance before a permit is issued and if so, how?

MDEQ inspects all sources as part of the permit drafting process. The District staff are responsible for issuing Title V permits as well as performing compliance activities (including inspections and handling citizen complaints), and are therefore very familiar with the sources' compliance history. District permit writers also review sources' permit application compliance certifications. In addition, the District Offices and the Central Office enforcement staff hold quarterly calls, and keep in communication with one another.

- a. In cases where the facility is out of compliance, are specific milestones and dates for returning to compliance included in the permit, or do you delay issuance until compliance is attained?

In the past, MDEQ typically reconciled compliance issues before issuing permits. However, now that there are fewer remaining initial permits to issue, MDEQ is more apt to issue a permit with a schedule of compliance to a noncomplying source, which includes milestones, progress report requirements and dates for returning to compliance. There may still be situations when MDEQ finds it necessary to resolve compliance issues before issuing a Title V permit.

MDEQ has also been working with USEPA to develop strategies for issuing permits to sources where enforcement cases are pending. This strategy involves adding a requirement to the schedule of compliance in the issued permit to expeditiously revise the permit's schedule of compliance once the enforcement case is complete in order to include details consistent with the consent order or judgment.

4. What have you done over the years to improve your permit writing and processing time?

MDEQ provides comprehensive staff training, including annual District staff trainings that have included sessions on Compliance Assurance Monitoring (CAM), MDEQ's revised application forms and electronic permitting system, and permit writing and structure. ESSD also provides training directed to staff, and District staff often attend ESSD's outreach training workshops. Staff have also attended national STAPPA permitting workshops.

MDEQ has developed a Title V operating manual, which includes standard, step-by-step permit issuance and public participation procedures, expert contact lists, general reference materials, and extensive implementation guidance. The

implementation guidance includes such topics as identifying underlying applicable requirements, monitoring, and permit revisions. The manual is updated frequently and is available to staff in hard copy and on the MDEQ intranet. Many of MDEQ's documents are also available on the Internet at <http://www.deq.state.mi.us/aps/>.

MDEQ has developed standard permit document templates and instructions for District permit writers, including the staff report (statement of basis), the permit shell, public notice documents, and source category and applicable requirement specific permit language. MDEQ also maintains examples of emissions unit permit tables that staff use as permit drafting models. In addition, MDEQ has developed flexible group permit tables for certain types of emission units that must meet specific requirements in lieu of obtaining an NSR/PTI. These documents are revised as necessary and provide up-to-date permit drafting tools for staff.

MDEQ assigns staff experts in various areas, including CAM, the Acid Rain Program, and specific source processes (foundries, auto assembly, chrome plating, etc.) to assist in developing permits for those sources.

MDEQ employs a statewide permit tracking system, ROP Toolkit, to monitor permit development and issuance, and to ensure accountability. In addition, MDEQ maintains additional tracking information as necessary to help manage and prioritize permitting activities. For example, MDEQ closely tracks initial permits that MDEQ has not yet issued. MDEQ also tracks related activities that may affect Title V permit issuance, such as NSR permitting actions and enforcement activities, to ensure that these related activities are prioritized and that District permit staff are kept up to date. MDEQ's long term data management goals include updating ROP Toolkit and integrating ROP Toolkit with other program areas such as NSR/PTI, the emission inventory, and enforcement.

MDEQ District and Central Office supervisors have monthly face to face meetings; typically a half day is dedicated to Title V issues. MDEQ has emphasized District Supervisors' accountability in achieving each District's issuance goals.

5. Do you have a process for quality assuring your permits before issuance? Please explain.

The activities discussed in A.4, particularly the Title V operating manual, the standard procedures and templates, and the monthly supervisor meetings all contribute to assuring permit consistency and quality. MDEQ's experts, who are responsible for different program areas, requirements, and source processes, often develop guidance for District permit writers or draft permit templates/boilerplates specific to their area of expertise. In addition, District permit writers can contact program experts for assistance in drafting a permit.

Before MDEQ issues a draft permit for public review, and before MDEQ finalizes a permit, the District Supervisor reviews the permit for accuracy and consistency. During the initial years of the Title V program, the Central Office Field Operations Manager also reviewed every permit. All District Offices report to the Field Operations Manager, further assuring consistency among the Districts.

6. Do you utilize any streamlining strategies in preparing the permit such as:

- a. Incorporating test methods, major and minor New Source Review permits, MACT's, other Federal requirements into the Title V permit by referencing the permit number, FR citation, or rule? Explain.

MDEQ uses incorporation by reference approaches, consistent with USEPA guidance, such as USEPA's July 10, 1995 White Paper for Streamlined Development of Part 70 Permit Applications. Cross referencing must be clear and concise, with no decision trees, and referenced material must be accessible. MDEQ typically uses referencing for incorporating test methods, detailed operation and maintenance plans, and lengthy monitoring requirements into the permit. In addition, MDEQ's permit structure allows District permit writers to include detailed monitoring, testing, and reporting requirements in appendices to the permit. This approach allows the detail to be included in the permit, without disrupting the flow or readability of the individual permit tables.

- b. Streamlining multiple applicable requirements on the same emission unit(s) (i.e., grouping similar units, listing the requirements of the most stringent applicable requirements)? Describe.

MDEQ's permit structure allows for the grouping of units with the same applicable requirements to avoid repetitious permits. Permits include requirement tables for each such "flexible group", in addition to requirement tables for individual units, as necessary. For example, the applicable State Implementation Plan (SIP) requirements for numerous gas fired boilers may be consolidated into a single flexible group table, while a single boiler subject to NSPS may have an additional unit specific table. In addition, the permit is structured to allow for the combining of multiple overlapping requirements into a single condition that will assure compliance with all said requirements. A statement is added to the end of the condition indicating that compliance with the condition is considered compliance with the subsumed conditions.

A source may propose the streamlining of multiple requirements in their application, and the permit writer analyzes such requests in the permit's staff report. Sources may also propose to consolidate or clarify applicable requirements and emission unit groupings, or propose to delete requirements

that are no longer applicable, such as a one time test. These approaches are implemented consistent with USEPA's White Paper. MDEQ's Rule 212(5), the instructions for drafting permits, as well as the instructions for the staff report, specifically address these streamlining approaches.

c. Describe any other streamlining efforts.

The activities discussed in A.4, particularly the standard permit document templates such as the staff report, the permit shell, public notice documents, flexible group permit tables for certain NSR/PTI requirements, and example emissions unit permit tables, help to streamline the permit issuance process.

7. What do you believe are the strengths and weaknesses of the format of the permits (i.e. length, readability, facilitates compliance certifications, etc.)? Why?

Strengths. MDEQ's overall permit structure strikes a good balance, addressing all applicable requirements without being overly complex. For example, permits combine units with the same requirements into "flexible groups", so that these requirements are not repeated throughout the permit. In addition, the standard permit appendices allow for more detailed inclusion of testing, monitoring, and recordkeeping requirements, so that the unit and flexible group parts of the permit remain concise and easy to reference.

MDEQ's permits clearly identify all emission units and flexible groups, as well as all applicable requirements and associated monitoring. The new permit shell format also includes for each limit and standard a reference to the associated monitoring requirements within the permit. In addition, each permit condition clearly cites the corresponding underlying applicable requirement(s).

MDEQ's permit format combines the Title V permit and a source-wide NSR/PTI in a manner that is comprehensive and easy to understand, and maintains the integrity of both programs while ensuring that the permits are up to date. In addition, the separate NSR/PTI and the Title V permit formats are compatible, making it easier for Title V permit writers to incorporate NSR/PTI requirements. The new Title V format also makes the permit easier to navigate.

Weaknesses. MDEQ finalized the new permit shell in July 2003, and neither MDEQ nor USEPA have identified any weaknesses. The new permit shell includes numerous changes and improvements that MDEQ identified through the use of the previous shell. In addition, MDEQ also considered USEPA's suggestions in developing the new shell.

8. How do you fulfill the requirement for a statement of basis¹? Please provide examples.

District permit writers draft a staff report for each permit. MDEQ uses a standard report template, which District permit writers populate with source specific information including general source information, emissions summary, regulatory analysis including a list of all past NSR/PTI's, streamlining analysis, insignificant activities listed in the permit application that are not subject to any process specific requirements, a summary of any requirements under dispute by the permittee, compliance status, response to comments, and changes made to the final permit as a result of comments or through the modification process. To see an example staff report, go to MDEQ's website at http://www.deq.state.mi.us/aps/downloads/rop/ROPlist/Sources_by_name.pdf, and view the staff report within any source specific link. The Access Business Group (Amway) permit staff report (SRN A2402) is an example which includes responses to comments as well as a permit modification addendum.

9. Does the statement of basis explain:

- a. the rationale for monitoring (whether based on the underlying standard or monitoring added in the permit)?

MDEQ's permits clearly reference the origin and authority for each monitoring condition, and identify whether the monitoring requirements stem from the underlying applicable requirement or are additional Title V monitoring. Underlying monitoring conditions cite the appropriate applicable requirement, such as an NSR/PTI, NSPS, SIP, etc. MDEQ specifically cites Michigan's Title V monitoring regulations, Rule 213(3), for each instance of additional monitoring. MDEQ has also revised its permit format so that each emission limit cross references the associated monitoring requirements detailed elsewhere in the permit. This format clearly identifies the associated monitoring for each limit.

MDEQ's April 11, 1997 guidance, "Procedure for Evaluating Periodic Monitoring Submittals," provides pollutant specific and emission unit specific rationale for different monitoring scenarios. In addition, MDEQ revised its staff report template, based on suggestions from USEPA during the program review audit,

¹ The Statement of Basis sets forth the legal and factual basis for the permit as required by 70.7(a)(5). MDEQ refers to the Statement of Basis as the staff report.

to further ensure that the staff report addresses monitoring issues, including source specific requirements such as CAM, as well as general monitoring information.

- b. applicability and exemptions, if any?

Yes. The Staff Report also references any permit shield non-applicability determinations in Part E of the permit.

- c. streamlining (if applicable)?

Yes.

- 10. Do you provide training and/or guidance to your permit writers on the content of the statement of basis?

The Staff Report template includes instructions to District permit writers regarding the content of the report.

- 11. Do any of the following affect your ability to issue timely initial Title V permits:

- a. SIP backlog (i.e., USEPA approval still awaited for proposed SIP revisions)

No.

- b. Pending revisions to underlying NSR permits

Yes. Some sources seek revisions to NSR/PTI requirements during the Title V permit process. MDEQ typically issues an NSR/PTI to address the changes before proceeding with the Title V permit. To mitigate the Title V delay, MDEQ prioritizes the PTIs that impact Title V permit issuance, and maintains a spreadsheet that tracks these permits.

- c. Compliance/enforcement issues

Yes. Compliance/enforcement issues are impacting the remaining initial Title V permits. In the past, MDEQ typically reconciled compliance issues before issuing permits. However, now that there are fewer remaining initial permits to issue, MDEQ is more apt to issue a permit with a schedule of compliance to a noncomplying source.

To address these issues, MDEQ tracks the status of its remaining initial Title V permits- including any enforcement issues- and also tracks enforcement cases

through weekly enforcement alerts. In addition, MDEQ has been working with USEPA to develop strategies for issuing permits to sources where enforcement cases are pending. This strategy involves including a requirement in the schedule of compliance which specifies that the source must revise the permit's schedule of compliance after the enforcement case is complete, in order to include details consistent with the consent order or judgment.

d. USEPA rule promulgation awaited (MACT, NSPS, etc.)

Generally no. In the past, sources did attempt to delay permit issuance pending a Federal rule promulgation; however, MDEQ is moving forward with permit issuance for sources potentially impacted by new rules.

e. Issues with USEPA on interpretation of underlying applicable requirements

In a few cases involving applicability determinations and/or enforcement issues.

f. Permit renewals and permit modification (i.e., competing priorities)

Generally no. There are inherently some competing priorities between issuing the initial round of permits and permit renewals/modifications. MDEQ has explicitly prioritized issuing the initial Title V permits; however, some sources do put pressure on MDEQ to issue permit modifications.

g. Awaiting USEPA guidance

No. Initially, Title V permit issuance began slowly, partially due to the lack of USEPA guidance. However, now that MDEQ is experienced in implementing the Title V program, MDEQ does not usually find USEPA guidance helpful, as it is generally issued long after the State has already issued its own guidance and implemented the portion of the program in question.

i. If yes, what type of guidance?

ii. If yes, have you communicated this to USEPA?

A. If yes, how did you request the guidance?

Note: If yes to any of the above, please explain.

12. Any additional comments on permit preparation or content?

The complexity of MACT standards makes them very “permit unfriendly”, and continues to be a problem for District permit writers. It is very difficult to capture the MACT requirements in permits, and to determine the appropriate balance between including sufficient detail in the permit and cross referencing the standard. MACT rules can be very voluminous, and applicability requirements are not always clear. In addition, MACTs offer numerous compliance options- all of which sources want included in their permits regardless of whether they use the different options. In one example, MDEQ noted that the Boat Manufacturing MACT, Subpart VVVV, requires the use of multi-variable equations to assess compliance instead of straightforward emission limits that could be more easily incorporated into permits.

B. General Permits

1. Do you issue general permits?

No.

a. If no, go to next section

b. If yes, list the source categories and/or emission units covered by general permits.

2. In your agency, can a Title V source be subject to multiple general permits and/or a general permit and a standard "site-specific" Title V permit?

a. What percentage of your Title V sources have one or more general permits have more than one general permit? _____%

3. Do the general permits receive public notice in accordance with 70.7(h)?

a. How does the public or regulated community know what general permits have been written? (E.g., are the general permits posted on a website, available upon request, published somewhere?)

4. Is the 5 year permit expiration date based :

a. on the date the general permit is issued?

b. on the date you issue the authorization for the source to operate under the general permit?

5. Any additional comments on general permits?

C. Monitoring

1. How do you ensure that your operating permits contain adequate monitoring (i.e., the monitoring required in 40 CFR 70.6(a)(3) and 70.6(c)(1)) if monitoring is not specified in the underlying standard or CAM?

MDEQ's April 11, 1997, "Procedure for Evaluating Periodic Monitoring Submittals," provides pollutant-specific and emission-unit specific rationale for monitoring. MDEQ also maintains examples of emissions unit permit tables that staff use as permit drafting models for common processes and applicable requirements.

MDEQ's revised permit application forms clearly require sources to identify monitoring requirements in addition to the applicable limits. MDEQ's new permit format also includes a column for each limit that references the associated monitoring requirements within the permit. This format will help ensure that the permit includes monitoring for these applicable requirements. In addition, supervisory review of draft permits includes a "unit by unit, limit by limit" review of each permit's monitoring requirements.

- a. Have you developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the guidance.

MDEQ's April 11, 1997 Procedure for Evaluating Periodic Monitoring Submittals provides pollutant specific and emission unit specific rationale for monitoring. This guidance is located on MDEQ's website at <http://www.deq.state.mi.us/aps/downloads/rop/ROPbackground/pmguide.pdf>.

2. Do you provide training to your permit writers on monitoring (e.g., periodic monitoring; CAM; monitoring QA/QC procedures including for CEMS; test methods; establishing parameter ranges)?

MDEQ provides comprehensive staff training, including annual all District staff trainings that have included sessions on permit drafting and CAM. MDEQ assigns staff experts for various subjects, including CAM as well as process specific areas such as automobile assembly, landfills, printers, refineries, etc. District permit writers can contact the appropriate State experts for assistance in addressing specific monitoring issues.

MDEQ has developed reference materials and implementation guidance for CAM and periodic monitoring. MDEQ also utilizes USEPA's CAM guidance. In addition, MDEQ maintains examples of specific emissions unit permit tables, including monitoring, that staff use as permit drafting models.

MDEQ's Technical Programs Unit is responsible for providing expertise on monitoring equipment and protocols, including CEMs, QA/QC procedures, etc. Staff consult with this Unit for assistance with technical monitoring issues.

3. How often do you "add" monitoring not required by underlying requirements? Have you seen any effects of the monitoring in your permits such as better source compliance?

Many permits include additional monitoring, particularly for pre-1997 NSR/PTI requirements, SIP limits, and New Source Performance Standards (NSPS). Sources' Title V permits have made them much more aware of the air program requirements and result in more comprehensive compliance monitoring information. The additional monitoring has resulted in existing compliance problems coming to light. MDEQ's District staff are responsible for both permitting and compliance, and work with the sources to rectify noncompliance issues.

4. Are you incorporating CAM monitoring into your permits?

As of July 2003, MDEQ has issued one renewal Title V permit containing CAM requirements. In preparation for incorporating CAM into upcoming permit renewals, MDEQ has provided statewide CAM training to staff, and has developed CAM implementation guidance, including a fact sheet and permit shell instructions for incorporating CAM into Title V permits. In addition, USEPA's CAM guidance is available to District permit writers. MDEQ also has a CAM expert, who provides guidance and training, and is available to assist staff in CAM implementation including permit drafting.

D. Public Participation and Affected State Review

Public Notification Process

1. Do you publish notices on draft Title V permits in a newspaper of general circulation?

MDEQ publishes newspaper notices only if the source is known to be controversial or has a history of compliance issues.

2. Do you use a State publication designed to give general public notice?

MDEQ's primary means of public noticing Title V permit actions is the DEQ Calendar. The Calendar is published every two weeks, has a circulation list of approximately 2500 interested parties, and is also posted on the Internet. To see the DEQ Calendar, go to <http://www.michigan.gov/deq>, choose "Information and News", and then "Calendar". All Title V public notices are published in the Calendar.

3. On average, how much does it cost to publish a public notice in the newspaper (or State publication)?

Newspaper notices generally cost at least \$400-500 per publication, with the most expensive newspapers costing \$1500 per publication.

4. Have you published a notice for one permit in more than one paper?

Occasionally.

- a. If so, how many times have you used multiple notices for a permit?

MDEQ has published multiple notices several times in larger metropolitan areas (i.e., Detroit) in order to ensure adequate coverage of the surrounding geographic area.

- b. How do you determine which publications to use?

MDEQ maintains a statewide catalogue of publications to select newspapers that will best provide notice to the surrounding geographic area. Where there are several choices in large urban areas, local District staff and/or the NSR/PTI public hearing coordinator determine which of these publications will reach the broadest audience.

- c. What cost-effective approaches have you utilized for public participation?

As discussed in section D.2. above, MDEQ's primary means of public noticing Title V permit actions is the DEQ Calendar. In addition, where MDEQ determines that a newspaper notice is warranted, MDEQ uses reasonably priced newspapers that reach the broadest audience. MDEQ also uses its website to make permitting information available to the public, including notices of current permit actions as well as draft, proposed, and recently finalized permits. See http://www.deq.state.mi.us/aps/downloads/rop/pub_ntce/pub_ntce.shtml.

5. Have you developed a mailing list of people you think might be interested in Title V permits you propose? [e.g., public officials, concerned environmentalists, citizens]

The DEQ Calendar mailing list includes a broad group of interested parties. MDEQ also maintains source specific mailing lists as public interest merits. During the initial years of the program, MDEQ also maintained a large list of persons that expressed general interest in the development of the program.

- a. How does a person get on the list?

Anyone may request by telephone, email, or letter to be on the Calendar list or a source specific list. In addition, a person who comments during a public comment period or at a public hearing is automatically added to that particular source's interested parties list.

- b. How does the list get updated?

MDEQ updates the Calendar list and individual source lists upon request. In addition, MDEQ updates individual source lists as necessary whenever a new public comment process takes place.

- c. How long is the list maintained for a particular source?

MDEQ maintains individual source lists based on the public's interest. For example, a citizen may only be interested in a specific permit action at the source, or a citizen may have a broader interest in all permitting actions for the source.

- d. What do you send to those on the mailing list?

The DEQ Calendar provides public notices of draft permits and hearings. For individual source mailings, MDEQ sends the staff report, with a cover letter

stating that the draft permit is available through the Internet, the local District Office, or upon request at the Central Office.

6. Aside from publications described above, do you use other means of public notification? If yes, what are they (e.g., post notices on your webpage, e-mail)?

MDEQ uses its website to make permitting information available to the public, and maintains continuously updated lists of current permit actions including draft, proposed, and recently finalized permits. See http://www.deq.state.mi.us/aps/downloads/rop/pub_ntce/roppn.shtml. The website also includes permit information all for Title V sources, and can sort sources by name, State Registration Number, and County.

7. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

MDEQ will engage specific groups, such as citizen organizations or environmental groups, where there is a known concern. Such activities are based on the specific circumstances and interests of that group. For instance, Southeast Michigan District has held two public informational meetings on two different Title V permits for the purpose of educating the public on the purpose of Title V, how to review the permit and provide comments, and to answer questions about the sources. These meetings were held in economically depressed areas with minority populations.

8. Do your public notices clearly state when the public comment period begins and ends?

Yes.

9. What is your opinion on the most effective avenues for public notice?

MDEQ believes that the Calendar and the Internet notices are very effective means for public noticing Title V permit actions, and reach more interested citizens than newspaper notices.

- a. Are the approaches you use for public notice effective?

Yes.

10. Do you provide notices in languages besides English? Please list.

Not at this time. The only formal request for a permit notice in another language was for an NSR/PTI public comment period. In that case, the Attorney General's

office determined that providing notice in the second language was not necessary to provide sufficient public notice to the interested parties.

As discussed above in section D.7, MDEQ works with citizen groups to address their particular needs and interests. In one case, MDEQ provided an Arabic translator at a Title V permit public hearing in Detroit.

Public Comments

11. Have you ever been asked by the public to extend a public comment period?

Yes.

a. If yes, did you normally grant them?

It depends on the circumstances. MDEQ grants reasonable requests for extensions. Examples of granted requests include: the Internet was down and citizens could not access information; citizens needed extra time to research specific permitting issues; and the end of the public comment period and hearing preceded a major holiday. In addition, MDEQ routinely extends public comment periods to coincide with the date of any scheduled public hearings.

b. If not, what would be the reason(s)?

Examples of denied requests include citizens who had not read the permit yet, despite being aware of the public comment period. In one case, MDEQ denied a request for a second public hearing; however, MDEQ did extend the public comment period in that instance.

12. Has the public ever suggested improvements to the contents of your public notice, improvements to your public participation process, or other ways to notify them of draft permits? Describe.

Citizens did not like MDEQ's department-wide public hearing format that was instituted in 2001, which did not allow presenters to speak in front of all hearing participants. Instead, presenters spoke in separate areas to MDEQ staff and hearing recorders. As a result of the citizens' concerns, who wanted all participants to have an opportunity to hear all presenters, MDEQ changed the public hearing format back to the original format.

13. Do you provide the public a copy of the statement of basis if they request it? If no, explain.

Yes. Staff Reports are available to anyone via the Internet. In addition, MDEQ sends hard copies upon request.

14. What percentage of your permits have received public comments?

Approximately 5-10% of operating permits receive public comment.

15. Over the years, has there been an increase in the number of public comments you receive on Title V permits? Is there any pattern to types of sources getting comments?

Yes, MDEQ has seen an increase in the number of public comments on draft Title V permits. This is likely because the later permits are for larger, more complex, and more controversial sources than those MDEQ permitted earlier. In addition, many of the last initial Title V permits MDEQ is issuing are for sources in Wayne County (Detroit area). Sources in this area are typically more controversial, and invoke more public interest than those in more rural parts of the State, such as the Upper Peninsula. With respect to the types of sources receiving public comment, incinerators invoke a lot of public interest.

16. Have you noticed any trends in the type of comments you have received? Please explain.

Generally no. MDEQ has not identified trends in the types of comments. However, over the years comments have become more sophisticated, focusing less on "not in my backyard" arguments and more on Title V permitting issues such as monitoring.

- a. What percentage of your permits change due to public comments?

MDEQ makes changes to approximately 5% of all draft Title V permits as a result of public comments.

17. Have specific communities (e.g., environmental justice communities) been active in commenting on permits?

Yes, environmental groups and local citizen groups have both been active in commenting on permits. A particular group's interest may be focused on specific areas, or on specific types of sources, such as tire burners.

18. Do your rules require that any change to the draft permit be re-proposed for public comment?

No, neither part 70 nor MDEQ's rules require that all changes to a draft permit be re-noticed for public comment.

- a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment?

Because part 70 does not specifically address this issue, MDEQ looks to the permit modification requirements for guidance in this area. For example, changes that would have been required to go through the significant modification process if the change had been processed after permit issuance would be re-noticed to the public for comment. In addition, MDEQ considers existing public interest in the draft permit when determining whether to re-notice a permit for comment.

USEPA 45-day Review

19. Do you have an arrangement with the USEPA region for its 45-day review to start at the same time the 30-day public review starts? What could cause the USEPA 45-day review period to restart (i.e., if public comments received, etc)?

MDEQ provides sequential public/Affected State review and USEPA review, not concurrent review. In the Title V Implementation Agreement between USEPA and MDEQ, USEPA has committed to reviewing permits and providing comments during a permit's public comment period. This approach fosters up front interaction between USEPA and MDEQ, and provides a mechanism to address issues before USEPA's formal review period. MDEQ would restart USEPA's 45 day review period if MDEQ made changes to the proposed permit.

- a. How does the public know if USEPA's review is concurrent?

N/A

20. Is this concurrent review process memorialized in your rules, a MOA or some other arrangement?

N/A

Permittee Comments

21. Do you work with the permittees prior to public notice?

Yes, Rule 214(2) provides a 7-30 day review period to the permittee prior to the public comment period. In addition, staff provide permittees with an informal review prior to the official review.

22. Do permittees provide comments/corrections on the permit during the public comment period? Any trends in the type of comments? How do these types of comments or other permittee requests, such as changes to underlying NSR permits, affect your ability to issue a timely permit?

In addition to the permittee permit review period, permittees often provide comments during the public comment period. The types of comments vary, but many involve monitoring, applicability, and wordsmithing. Responding to the permittees' comments, revising the draft permits as appropriate, and processing requested revisions through the NSR/PTI program all add to the time it takes for MDEQ to issue Title V permits.

To minimize the delays caused by changes involving pending NSR/PTI's, MDEQ specifically tracks the status of NSR/PTI applications that impact operating permit issuance. This ensures that an NSR/PTI writer is aware that a pending Title V permit is affected and possibly delayed by the change, and he/she can prioritize the permit. The tracking system also ensures that the operating permit writer is aware when MDEQ issues the NSR/PTI, so that he/she can proceed with the operating permit.

Public Hearings

23. What triggers a public hearing on a Title V permit?

Citizens may request a public hearing on any draft Title V permit. MDEQ reviews hearing requests on a case by case basis and determines whether to hold the hearing based on the reasonableness of the request (i.e., issues raised are relevant to the source, to air pollution requirements, to the permit action, etc.). MDEQ may also contact a requestor to confirm that the requestor is really seeking a hearing. In some cases, the requestor is only seeking clarification of issues that MDEQ can directly respond to. All draft permit public notices include the procedure for requesting a hearing. In addition, public notices include a contact person if a participant needs any accommodations for effective participation at the hearing, such as mobility, visual, hearing, or other assistance.

- a. Do you ever plan the public hearing yourself, in anticipation of public interest?

Yes, hearings are often tentatively scheduled in anticipation of public interest. In such cases, the draft permit public notice includes the scheduled hearing date.

Availability of Public Information

24. Do you charge the public for copies of permit-related documents? If yes, what is the cost per page? Are there exceptions to this cost (e.g., the draft permit requested during the public comment period, or for non-profit organizations)?

During the public comment period, MDEQ does not charge the public for the public comment packet which includes the permit, public notice, and staff report. In addition, these documents are available for free on the Internet at any time.

For Freedom of Information Act requests, Michigan charges five cents per page plus a minimum of one half hour of labor¹. For nonprofit entities, Michigan waives up to \$20.00 in fees.

- a. Do your Title V permit fees cover this cost? If not, why not?

Yes, Title V fees cover the cover the costs of providing hard copies during the public comment period and electronic copies via the Internet.

25. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, 6-month monitoring reports, compliance certifications, statement of basis) especially during the public comment period?

As discussed in section D. 24 above, permit related information is available on the Internet, including current draft, proposed, and final permits, modified permits, permit renewals, public notices, and staff reports. For hard copies of this information, or for other permit documents such as applications and source reports, the public can contact MDEQ by any means- telephone, e-mail, mail, etc. MDEQ's public notices, Calendar, and website all include specific MDEQ contact information.

¹The labor rate is \$20.18 per hour for fiscal year 2003.

- a. Are any of the documents available locally (e.g., public libraries, field offices) during the public comment period? Explain.

MDEQ maintains the complete permit record in the local District offices. Depending on the needs of interested parties, MDEQ will provide public access to permit documents at local libraries or government halls.

26. How long does it take to respond to requests for information for permits in the public comment period?

MDEQ responds quickly to information requests, typically within a few days. MDEQ processes Freedom of Information Act requests within five business days or less.

27. Have you ever extended your public comment period as a result of information requests?

Yes. MDEQ has extended the public comment period in instances where citizens requested additional time to research and understand specific permitting issues. Also, in one case MDEQ needed additional time to locate the requested information; MDEQ extended the public comment period accordingly.

- a. Where is this information stored?

The MDEQ District Offices maintain the official operating permit files for the sources within their jurisdictions.

- b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits?

Except in unusual circumstances, such as requests involving extensive file searches, information requests do not normally affect MDEQ's ability to issue permits.

- c. Have you ever extended the public comment period because of a request for a public hearing?

Yes. If MDEQ schedules a hearing date that occurs after the required 30 day public comment period, MDEQ routinely extends the public comment period to the hearing date.

28. Do you have a website for the public to get permit-related documents?

Extensive permitting information is available online at <http://www.deq.state.mi.us/aps/>.

a. What is available online?

Source specific online information includes: current draft, proposed, and final permits, modified permits, permit renewals, public notices, and staff reports for all Title V sources. The public can view real-time lists of permits in the 30 day public comment period, the 45 day USEPA review period, and recently finalized permits. The public can also search for specific source permits, and can find information by source name, State Registration Number, and County.

Additional online information includes: permit program overview and general program information, electronic copies of permit program publications, permit workshop information, electronic copies of all MDEQ operational memoranda and program guidance, permit application forms, reporting forms, form instructions, and USEPA actions regarding MDEQ's Title V program.

b. How often is the website updated? Is there information on how the public can be involved?

MDEQ maintains its website in real time. MDEQ updates source specific permit information at each permit issuance milestone (draft permit, proposed permit, final permit). MDEQ also updates the website whenever MDEQ develops or updates permit program documentation.

MDEQ's website provides general information to the public regarding the permit program and the permit issuance process, including a public notice timeline which describes each step of permit development and issuance. The recent permit actions page also explains each action (draft, proposed, final, renewal, modification) and how to submit comments on draft permits in the 30 day public review period.

29. Have other ideas for improved public notification, process, and/or access to information been considered? If yes, please describe.

MDEQ continually makes improvements to its permit Internet site in order to facilitate public notification, process, and access to information. For example, MDEQ now saves Internet documents in *.pdf format, in addition to Microsoft Word format, in order to make it easier for the public to view the documents. MDEQ recently revamped its permit web pages to include recent permit actions

information, so that the public could easily track current permit actions and access related permit information. MDEQ also restructured Internet access to source-specific documents, facilitating searches for source-specific information. MDEQ also standardized its permit file naming conventions, making it possible to identify documents and permit actions by file name.

30. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe.

MDEQ's web page for recent permit actions includes information for the public to track the 60 day citizen petition period for each permit. The areas for proposed permits and for recently final permits discuss the citizen petition period, and explain that the petition period ends 105 days after the beginning of USEPA's 45-day review period. The discussion also references the State's citizen petition regulation, Rule 214(8). The proposed and recently final listings include the beginning date of USEPA's 45-day review period for each permit. In addition, MDEQ retains the recently final permits on the current actions list until the citizen petition period ends.

31. Do you have any resources available to the public on public participation (booklets, pamphlets, webpages) ?

Yes, see section D. 28 above.

32. Do you provide training to citizens on public participation or on Title V?

MDEQ's workshops are geared primarily for the regulated community. MDEQ has participated in USEPA sponsored citizen training. MDEQ provides extensive Title V program information on the Internet; see section D. 28 above.

33. Do you have staff dedicated to public participation, relations, or liaison? Where are they in the organization? What is their primary function?

Because the District permit staff are the most knowledgeable about the program and the specific sources, they are responsible for implementing the public participation requirements, and are the primary contacts for public inquiries. MDEQ maintains step-by-step public participation guidance for District permit writers in order to ensure consistency. This guidance includes detailed internal processing information, including the procedures for issuing public notices, setting up public hearings, responding to public comments, etc.

Affected State Review and Review by Indian Tribes

34. How do you notify affected States of draft permits?

MDEQ notifies affected States via e-mail, using the same 30 day public comment notice MDEQ e-mails to USEPA. MDEQ maintains a list of affected State contacts who have been designated by each of the affected States. MDEQ also recently began notifying Canadian officials via e-mail.

a. How do you determine what States qualify as “affected States” for your draft permits?

MDEQ provides notice to (the) State(s) bordering the Michigan county where the Title V source resides, regardless of whether the source is over 50 miles from that State. MDEQ’s affected State contact list identifies each of these Michigan counties, the MDEQ District Offices with jurisdiction over these counties, and the associated affected State(s).

35. How do you notify tribes of draft permits?

Because there are no tribes recognized as States in Michigan, MDEQ does not currently notify tribes of draft permits. However, interested tribes can request to be added to an interested persons list; see section D. 5. above.

36. What percentage of your permits get comments from affected States? from Tribes?

MDEQ does not believe that any States or tribes have commented on draft Title V permits.

37. Is there any pattern to the type of draft permit that gets affected State / Tribal comment? Are there common themes in comments from affected States or Tribes?

Not applicable.

38. Suggestions to improve your notification process? Any additional comments on public notification?

No. Michigan’s affected States have told MDEQ that the e-mail notification system works well; some States provide affected State notification to MDEQ in the same manner.

E. Permit Issuance / Revision / Renewal

Initial Permit Issuance

1. If not all initial permits have been issued, do you have a plan to ensure your permits are issued in a reasonable timeframe? If not, what can USEPA do to help?

In November 2001, MDEQ began implementing a schedule to issue all remaining initial Title V permits by the December 2003 commitment date. As of MDEQ's December 2003 milestone date, the State acted on 153 of the remaining 167 applications. As of August 1, 2004, MDEQ has 6 remaining permits to issue. MDEQ stated that Title V permit issuance is the Districts' number one workload priority. In addition, Central Office NSR/PTI staff are assisting the Districts by drafting and processing some of the remaining Title V applications. Many of the delays in issuing the last applications are due to NSR/PTI issues, enforcement issues, and pending additional information request submittals from sources. MDEQ continues to closely track the remaining applications in order to mitigate delays as much as possible.

MDEQ does not have a backlog of applications for sources seeking potential to emit limits to avoid the Title V permit program. Sources with small actual emissions can register and annually certify their emissions in accordance with Michigan's prohibitory rule, R208a. Sources can also request potential to emit limits through NSR/PTI opt-out permitting. MDEQ typically issues NSR/PTI opt-out permits within 60 days of receipt of an application.

Permit Revisions

2. Did you follow your regulations on how to process permit modifications based on a list or description of what changes can qualify for:

MDEQ has developed extensive permit modification guidance for District permit writers and for sources, including step-by-step permit issuance procedures, permit modification decision tree flowcharts, and detailed permit modification timelines. Specific guidance includes MDEQ's permit revision form instructions, MDEQ's Public Participation Procedures, Operational Memorandum No. 2: "Changes to a Stationary Source after Renewable Operating Permit Issuance", and ESSD's "Life After ROP" Manual. MDEQ also developed a comparative chart of the part 70 permit modification rules, the part 70 preamble, Michigan's rules, and Michigan's part 70 program submittal in order to ensure that the State's permit modification procedures are in compliance with both Federal and State requirements.

- a. Administrative amendment? (See § 70.7(d)(vi))- Yes.

- b. §502(b)(10) changes? (See §70.4(b)(12))- Yes.
- c. Significant and/or minor permit modification? (See §70.7(e))- Yes.
- d. Group processing of minor modifications?

Not applicable. MDEQ does not group process minor modifications.

- 3. If the USEPA Regional office has formally asked you to re-open a permit, were you able to provide USEPA with a proposed determination within 90 days? (40 CFR 70.7(g)(2)) If not, why not?

Not applicable. USEPA has not invoked the formal permit reopening process for a Michigan Title V permit.

- 4. For those permits that have been issued, and where the permitted facility has undergone a change, how many changes to the Title V permit have you processed?

As of June 2003, MDEQ had received 113 applications for permit amendments/modifications.

- a. What percentage of changes at the facilities are processed as:

- i. Significant ~15%
- ii. Minor ~40%
- iii. Administrative ~40%, plus 5% enhanced NSR

- b. Of all changes that you have, how many were:

- i. Off-permit -24
- ii. 502(b)(10) -9

- 5. How many days, on average, does it take to process (from application receipt to final permit amendment):

Processing time for individual permit actions varies, depending on the source specific circumstances pertaining to the change.

a. a significant permit modification?

Averages less than 7 months per significant modification (based on data for 13 significant modifications, ranging from 4-11 months).

b. a minor modification?

Averages about 4 months per minor modification (based on data available for 16 minor modifications, ranging from 1-13 months).

c. an administrative amendment?

Averages about 1 month per administrative amendment (based on data available for 20 administrative amendments received since 2001, ranging from 1 day to 5 months).

6. Have you taken longer than the part 70 timeframes of 18 months for significant revision, 90 days for minor permit revisions and 60 days for administrative? Explain.

As of June 2003, MDEQ has processed all but two significant modifications within 18 months. The two remaining modifications for one source are being held up due to ongoing enforcement action against the facility.

As of June 2003, MDEQ has issued 67% of the pending minor modification applications, with 75% issued or proposed. These numbers include all applications, not just those that are older than 90 days. As discussed in section E. 5 above, MDEQ has been issuing minor modifications in about 4 months on average, with a few taking significantly longer. The reasons for the delays include source specific issues, such as sources that have submitted numerous modification applications, making previous applications outdated. In addition, MDEQ has identified initial permit issuance as its number one priority; therefore District permit staff are prioritizing the initial permit issuance workload over permit modifications.

As of June 2003, MDEQ has issued 98% of the pending administrative amendment applications. These numbers include all applications, not just those that are older than 60 days. As discussed in section E. 5 above, MDEQ has been issuing administrative amendments in about 1 month on average, with some taking significantly longer. Many of the amendment applications that MDEQ received in the 1990s took a year or more to process. This is because these early administrative amendments were submitted before MDEQ had developed its permit issuance procedures. In addition, MDEQ has identified initial permit issuance as its number one priority; therefore District permit staff are prioritizing the initial permit issuance workload over permit modifications.

7. What have you done to streamline the issuance of revisions?

As discussed above in section E. 2, MDEQ has developed extensive permit modification guidance for District permit writers and for sources, including step-by-step permit issuance procedures, permit modification decision tree flowcharts, and detailed permit modification timelines. Specific documents include MDEQ's permit revision form instructions, MDEQ's Public Participation Procedures, Operational Memorandum No. 2: "Changes to a Stationary Source after Renewable Operating Permit Issuance", and ESSD's "Life After ROP" Manual. Standardizing the permit issuance process and providing detailed information regarding the different permit revision tracks has helped MDEQ timely issue the majority of permit revisions.

8. What process do you use to track permit revision applications moving through your system?

MDEQ's electronic Title V system tracks all permit applications, including revisions. MDEQ tracks each type of application (administrative amendment, enhanced NSR, minor modification, significant modification) separately, with appropriate issuance milestone dates for each (application received, public notice, USEPA review, etc.). MDEQ also tracks permit revision information by District Office as part of the program's field statistics report.

In addition, District permit writers document permit revisions in each permit's staff report. MDEQ also provides permit revision information on the Internet, including public notices and draft, proposed, and final permit revisions, as applicable.

9. Have you developed guidance to assist permit writers and sources in evaluating whether a proposed revision qualifies as an administrative amendment, off-permit change, significant or minor revision, or requires that the permit be reopened? If so, provide a copy.

As discussed in section E. 2 above, MDEQ has developed extensive guidance regarding permit modifications. To access this information online, including the permit revision form instructions, Operational Memorandum No. 2: "Changes at a Stationary Source after Renewable Operating Permit issuance", and ESSD's "Life After ROP" Manual, go to <http://www.deq.state.mi.us/aps/>. MDEQ's ESSD also holds monthly "Life after ROP" workshops that include a session on permit modifications.

10. Do you require that source applications for minor and significant permit modifications include the source's proposed changes to the permit?

In accordance with part 70, MDEQ's minor modification forms allow sources to include their proposed changes to the permit (part 70 does not adopt this process

for significant modifications). In practice, MDEQ has found this process to be problematic, as sources' proposed changes rarely are sufficient to directly incorporate into the permit, as part 70 contemplates. To address this issue where the change involves an NSR/PTI, MDEQ has modified its forms to allow sources to reference the NSR/PTI in lieu of proposing changes to the Title V permit. This approach is working very well, as MDEQ's NSR/PTI and Title V permit format are very similar. References to the NSR/PTI provide clear and concise information regarding the minor operating permit modification.

To address the minor modification provision that triggers USEPA's 45-day review of the proposed permit upon USEPA's receipt of the application, MDEQ notifies USEPA that a source has submitted an application, but generally does not start USEPA's 45-day review until MDEQ drafts the proposed permit revision.

- a. For minor modifications, do you require sources to explain their change and how it affects their applicable requirements?

Yes, sources must identify the change on form M-001. The form M-001 instructions offer further guidance on completing this form, such as describing changes to the emission unit, changes in emissions or pollutants, new emission units, new applicable requirements, proposed changes to existing permit terms, etc.

11. Do you require applications for minor permit modifications to contain a certification by a responsible official, consistent with 70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used?

Yes. Sources must submit certification form C-001 with all application submittals, including minor permit modifications. The minor permit modification instructions further explain that a minor permit modification certification includes the source's certification that the proposed modification meets the minor modification criteria.

12. When public noticing draft permit revisions, how do you identify which portions of the permit are being revised? (e.g., narrative description of change, highlighting, different fonts).

The public notice document does not identify the specific changes; however, it does note whether an emissions increase is associated with the change, in accordance with 40 CFR 70.7(h). MDEQ documents the permit revisions in the staff report.

13. When public noticing draft permit revisions, how do you clarify that only the proposed permit revisions are open to comment?

The public notices, the Calendar notices, and the Internet notices clarify that MDEQ is holding the public comment period only on the permit revision. In addition, MDEQ informs any citizens who express an interest in a permit action that only the revision is open for comment. The staff reports also clarify that MDEQ will not finalize the permit modification until after the public (as applicable), affected States and USEPA have an opportunity to comment on the changes to the permit.

Permit Renewal Or Reopening

14. Have you begun to issue permit renewals?

Yes

15. What are your plans for timely issuance of the renewals?

MDEQ does not anticipate any backlog issues with permit renewals. Now that MDEQ has issued most of the initial title V permits, MDEQ is focusing on permit renewals. The renewal permits are on a less demanding schedule, as large blocks of initial permits do not expire simultaneously. In addition, although District permit writers must update the renewal permits, the initial permits capture most of the sources' activities and applicable requirements; therefore, District permit writers do not have to start drafting the permits from scratch.

16. Do you have a different application form for a permit renewal compared to that for an original application? (e.g., are your application renewal forms different from the forms for initial permits)

MDEQ uses the same applications for initial permits and for renewal permits. However, MDEQ has revised the forms as a result of the experiences with the initial round of permitting. The new forms are more user-friendly and efficient, consolidating information and requiring more relevant information. For example, where the original forms included a separate form for each type of monitoring, the revised forms include a generic monitoring form for all processes. In addition, the forms also include an innovative approach that allows sources to cite specific applicable requirements from NSR/PTI and Title V permits, making it easy for sources to rely on the information in current permits while providing clear and concise information for District permit writers as well as the public. Sources have given MDEQ positive feedback on the revised forms.

- a. If yes, what are the differences? Are 1st time requirements (like CAM, off permit changes, etc.) in a renewal application being included in the renewal?

Not applicable.

17. Has issuance of renewal permits been “easier” than the original permits? Explain.

Yes. As discussed in section E.15 above, the initial permits identify and organize the sources’ emissions units and applicable requirements, and establish the base for the renewal permit. When drafting a renewal permit, District permit writers focus on new and revised emission units, new and revised applicable requirements (including CAM), and clarifying permit conditions, if necessary.

18. How are you implementing the permit renewal process (i.e., guidance, checklist to provide to permit applicants)?

MDEQ’s permit renewal process follows the same procedures as the initial permit issuance process. Therefore, all MDEQ’s guidances are relevant for permit renewals. For examples, see sections A.4, A.10, C.1, C.2, etc. MDEQ provides comprehensive staff training, including annual all field staff trainings that have included sessions on permit drafting and CAM, which MDEQ is just beginning to implement as part of the permit renewal process. MDEQ has also developed reference materials and implementation guidance for CAM.

Similar to the permit application revisions discussed in section E.16, MDEQ has revised its permit shell format as a result of the experiences with the initial round of permitting. These changes improve the permit’s organization, coordinate the format with the NSR/PTI format, and correlate permit limits and standards to the associated monitoring requirements.

19. What % of renewal applications have you found to be timely and complete?

Approximately 90% of renewal applications have been timely and complete.

20. How many complete applications for renewals do you presently have in-house ready to process?

As of June 2003, MDEQ has received 59 renewal applications. Of those, MDEQ has finalized 12, drafted 3 for public comment, and proposed 1 for USEPA review. MDEQ received most of the renewal applications beginning in late 2002. As of January 2004, MDEQ has finalized 22 renewal permits, drafted 2 for public comment, and proposed 3 for USEPA review.

21. Have you been able to or plan to process these renewals within the part 70 timeframe of 18 months? If not, what can USEPA do to help?

As discussed in E.15 above, MDEQ does not anticipate backlog problems with permit renewals. Now that MDEQ has issued most of the initial title V permits, MDEQ is focusing on permit renewals. In addition, MDEQ has developed an innovative approach to address the situation where a permit may expire because a source's renewal application was not timely and complete. In these cases, MDEQ issues a consent order requiring the source to continue to meet all requirements of the expired permit, and fining the source (typically \$5,000). This approach ensures the continuity of the permit requirements, while also addressing the source's failure to submit a timely and complete renewal application. To help reduce the number of late applications, MDEQ is also sending renewal reminders to sources.

22. Have you ever determined that an issued permit must be reopened or revoked to assure compliance with the applicable requirements?

Yes, MDEQ has reopened a few permits to assure compliance with the applicable requirements. For example, MDEQ has reopened permits to adjust the monitoring provisions, to add a fugitive dust plan, and to correct averaging times.

F. Compliance

1. Deviation reporting:

- a. Which deviations do you require be reported prior to the semi-annual monitoring report? Describe.

MDEQ requires notice within two days and a written report generally within ten days of any excess toxics emissions lasting more than an hour, or any excess emissions of any other air contaminant lasting more than two hours. For additional detail, see Rule 912. In addition, CEM excess emission reports are due quarterly.

- b. Do you require that some deviations be reported by telephone?

As described in Rule 912(4), sources may initially report certain deviations by telephone, electronic communication, or oral communication within two days, and later submit a certified written report. For additional detail see Rule 912.

- c. If yes, do you require a followup written report? If yes, within what timeframe?

Sources must submit a written report within ten days after a start-up or shutdown, within ten days after the source has corrected abnormal conditions or a malfunction, or within thirty days of discovery of abnormal conditions or a malfunction, whichever is first.

- d. Do you require that all deviation reports be certified by a responsible official? (If no, describe which deviation reports are not certified).

Yes

- i. Do you require all certifications at the time of submittal?

No.

- ii. If not, do you allow the responsible official to “back certify” deviation reports? If you allow the responsible official to “back certify” deviation reports, what timeframe do you allow for the followup certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)?

If the responsible official did not certify the written deviation report at the time of submittal, he/she must certify the report within 30 days following the end of the calendar month during which the source reported the deviation.

2. How does your program define deviation?

MDEQ implements the deviation requirements consistent with the broad meaning cited in 70.6(a)(3)(iii)(B) for “prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit”. A deviation is any variation from any permit term or condition. MDEQ’s reporting forms, form instructions, and the “Life after ROP” manual all address the requirements for deviation reports, semiannual reports, and annual compliance certifications.

a. Do you require only violations of permit terms to be reported as deviations?

No, sources must report all deviations from permit terms and conditions. Sources may submit information supporting any claims that a particular deviation is not a violation.

b. Which of the following do you require to be reported as a deviation:

i. excess emissions excused due to emergencies (pursuant to 70.6(g))

Yes.

ii. excess emissions excused due to SIP provisions (cite the specific State rule)

Yes, see Rule 915, “Enforcement discretion in instances of excess emissions resulting from malfunction, start-up, or shutdown,” and Rule 916, “Affirmative defense for excess emissions during start-up or shutdown.”

iii. excess emissions allowed under NSPS or MACT SSM provisions?

It depends on the requirements of the particular NSPS and MACT standards. Where a standard does not apply during circumstances such as startup, shutdown, or malfunction, then there is no deviation. However, if the standard does apply but there is no violation during certain circumstances, or if monitoring and other requirements continue to apply, then there may be a deviation.

iv. excursions from specified parameter ranges where such excursions are not a monitoring violation (as defined in CAM)

Yes.

- v. excursions from specified parameter ranges where such excursions are credible evidence of an emission violation

Yes

- vi. failure to collect data/conduct monitoring where such failure is “excused”:

It depends on structure of the applicable requirement and the associated permit conditions. For example, if the monitoring is required but is similar to CAM in that certain excursions (missing monitoring/data) are not violations, then the missing data would be a deviation. However, if the requirement allows for a certain amount of missing monitoring/data, then there would be no deviation provided the missing information was below the rule’s threshold.

Michigan’s SIP requirements are not structured to allow for “excused” monitoring/data or missing monitoring/data. Where Federal requirements allow for this structure, MDEQ would defer to USEPA’s interpretation of the monitoring requirements as to whether a deviation occurred.

- A. during scheduled routine maintenance or calibration checks

Typically yes, unless applicable requirement and associated permit conditions specifically state that no monitoring or alternate monitoring is required during routine maintenance or calibration checks.

- B. where less than 100% data collection is allowed by the permit

Typically no, provided that the applicable requirement and associated permit conditions define the circumstances where the data collection requirements do not apply.

- C. due to an emergency

Typically yes, unless the applicable requirement and associated permit conditions specifically provide that no monitoring is required during an emergency.

- vii. Other? Describe.

Not applicable.

3. Do your deviation reports include: the probable cause of the deviation? Any corrective actions taken? The magnitude and duration of the deviation?

Yes. MDEQ's standard deviation report form requires information regarding the description and reason for the deviation, corrective actions taken, and duration of the deviation.

4. Do you define "prompt" reporting of deviations as more frequent than semi-annual?

MDEQ's prompt reporting requirements are as follows:

For emissions of a toxic pollutant which exceed Federal and State requirements for more than an hour, prompt reporting is notification within 2 days and a written report within 10 days after a start-up or shutdown occurred, within 10 days after abnormal conditions or a malfunction has been corrected, or within 30 days of discovery of abnormal conditions or a malfunction, whichever is first.

For emissions of any other air contaminant which exceed Federal and State requirements for more than 2 hours, prompt reporting is notification within 2 days and a written report within 10 days after a start-up or shutdown occurred, within 10 days after abnormal conditions or a malfunction has been corrected, or within 30 days of discovery of abnormal conditions or a malfunction, whichever is first.

For deviations that exceed the emissions allowed by the permit and continue for less than 1 hour for toxics, and less than 2 hours for other air contaminants, prompt reporting is included in the semiannual report.

For deviations that do not exceed the emissions allowed under the operating permit, prompt reporting is included in the semiannual report.

5. Do you require a written report for deviations?

Yes, see section F.4. above.

6. Do you require that a responsible official certify all deviation reports?

Yes, all permit submissions, including deviation reports, include a responsible official certification.

7. What is your procedure for reviewing and following up on: deviation reports? Semi-annual monitoring reports? Annual compliance certifications?

Field office compliance inspectors are responsible for reviewing and following up on deviation reports, semiannual reports, and annual compliance certifications.

Inspectors review all reports, and issue Letters of Violation (LOV) or initiate escalated enforcement actions, as appropriate. In addition, MDEQ may issue LOVs or pursue escalated enforcement for sources that fail to submit or submit insufficient semiannual reports and/or annual compliance certifications. MDEQ tracks semiannual and annual report information by District, including: the number of sources required to submit reports, the percentage of reports submitted on time, the percentage of reports over 6 months late, the total number of deviations reported, the number of LOVs for reported deviations and late/improper reports, the number of escalated enforcement cases for reported deviations and late/improper reports, etc.

8. What percentage deviation reports, semi-annual monitoring reports, and annual compliance certifications do you review?

MDEQ field staff review 100% of the deviation reports, semi-annual reports, and annual compliance certifications.

9. Compliance certifications

- a. Have you developed a compliance certification form? If no, go to question 7.

Yes.

- i. Is the certification form consistent with your rules?

Yes.

- ii. Is compliance based on whether compliance is continuous or intermittent or whether the compliance monitoring method is continuous or intermittent?

Michigan's compliance certification rules are consistent with the original part 70 rule promulgated on July 21, 1992. Compliance is based on whether compliance is continuous or intermittent.

- iii. Do you require sources to use the form? What percentage do?

No. A source may develop an alternate form, but it must be approved by MDEQ to ensure that it meets the compliance certification rule requirements. MDEQ has not yet approved any alternate forms.

iv. Does the form account for the use of credible evidence?

Michigan's form requires the source to consider all credible evidence. MDEQ's "Life After ROP" manual addresses the credible evidence and reasonable inquiry provisions for compliance certifications.

v. Does the form require the source to specify the monitoring method used to determine compliance where there are options for monitoring, including which method was used where more than one method exists?

The deviation form requires specific information regarding the method used to determine compliance for all deviations. Sources may otherwise provide this information on an additional information form, but MDEQ does not require it. However, MDEQ's "Life After ROP" manual discusses sources' reasonable inquiry responsibilities for the annual compliance certification, including keeping adequate records verifying compliance status with every permit condition (including monitoring), as well as the methods used to determine compliance. In addition, sources required to submit a deviation form must specify any additional monitoring methods not addressed in the permit that provide additional credible evidence of compliance or noncompliance.

10. Excess emissions provisions:

a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it: provide relief from penalties? Provide injunctive relief? Excuse noncompliance?

Section 5527 of Michigan's Environmental Protection Act includes the 70.6(g) emergency defense provisions. An emergency constitutes an affirmative defense if the source can show that it met all the criteria of Section 5527 of Michigan's Environmental Protection Act, including taking all reasonable steps to minimize emissions. If the source succeeds in asserting the emergency defense, there won't be any penalties imposed.

b. Does your program include a SIP excess emissions provision? If no, go to 6.c. If yes does it:

MDEQ's startup, shutdown, and malfunction (SSM) rules, Rule 915 and Rule 916, are part of the Michigan SIP. Michigan's rules are consistent with USEPA's September 20, 1999 memorandum, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown."

i. Provide relief from penalties?

Consistent with USEPA guidance, the SIP includes an enforcement discretion component and an affirmative defense component for certain types of violations if the source can prove that it meets all the criteria of the rule.

ii. Provide injunctive relief?

Michigan's SSM rules do not affect MDEQ's authority to seek injunctive relief. See Rule 915(6) and Rule 916(4).

iii. Excuse noncompliance?

Some provisions outline MDEQ's enforcement discretion; others provide an affirmative defense for noncompliance.

c. Do you require the source to obtain a written concurrence from the PA before the source can qualify for:

i. the emergency defense provision?

The source must meet the emergency defense criteria in Section 5527, and submit a notice to MDEQ within 2 working days. 70.6(g) does not provide for the permitting authority's written concurrence; in any enforcement proceeding, the defendant seeking to establish the occurrence of an emergency has the burden of proof.

ii. the SIP excess emissions provision?

The source must meet the startup and shutdown provisions in Rule 916, including notification requirements, to seek an affirmative defense. Sources may submit additional information specified in Rule 915 for MDEQ to consider in exercising its enforcement discretion. USEPA's SIP SSM guidance does not require obtaining the permitting authority's written concurrence.

iii. NSPS/NESHAP SSM excess emissions provisions?

Each underlying NSPS or NESHAP SSM excess emissions provisions dictates the scope of the relief, and whether the PA must grant a written concurrence.

11. Is your compliance certification rule based on: the '97 revisions to part 70 - i.e., is the compliance certification rule based on whether the compliance monitoring method is continuous or intermittent; or: the '92 part 70 rule - i.e., is the compliance certification rule based on whether compliance was continuous or intermittent?

MDEQ's compliance certification rule is based on the 1992 part 70 rule - i.e., compliance certification is based on whether compliance was continuous or intermittent.

12. Any additional comments on compliance?

MDEQ's "Life After ROP" manual provides sources and District staff valuable information regarding Title V compliance obligations, including deviation reports, semiannual reports, annual compliance certifications, and permit modification requirements.

With respect to USEPA's compliance and enforcement program, MDEQ would like to see more timely action on USEPA enforcement cases and inspections, and on USEPA's NSPS and NESHAP applicability determinations. These issues impact permit issuance, as the permits may need to include schedules of compliance for noncomplying sources, or additional NSPS/NESHAP requirements. For example, USEPA's MACT and Title V applicability determination for Pfizer's Holland facility took 18 months. Similarly, USEPA's NSPS applicability determination for The Environmental Quality Company was delayed for months. In another case, USEPA's enforcement staff wanted MDEQ to delay issuing a Title V permit to a source that USEPA had inspected in the spring of 2002, but had not completed reviewing. After notifying USEPA enforcement staff, MDEQ finally proceeded with issuing the permit in the spring of 2003, without a final enforcement determination from USEPA.

G. Resources & Internal Management Support

1. Are there any competing resource priorities for your "Title V" staff in issuing Title V permits?

Yes

- a. If so, what are they?

In addition to writing Title V permits, District Office staff have many other responsibilities, including: reviewing registration permit applications and annual renewals (Rule 208a registrations), performing inspections, implementing USEPA's compliance monitoring strategy, investigating citizen complaints, identifying/citing violations and initiating escalated enforcement actions, processing tax exemption applications, and reviewing source reports (including NSPS, NESHAP, emission inventory, environmental audits, and Title V reports).

MDEQ's District Offices and District staff have risen to the challenge of meeting Title V workloads as well as additional District responsibilities. As of January 30, 2004, MDEQ has issued 438 initial Title V permits, 22 renewal permits, 18 significant permit modifications, 40 minor permit modifications, and 68 administrative permit amendments. As of August 1, 2004, MDEQ has 6 initial Title V permits left to act on as part of its December 2003 initial permit issuance commitment to USEPA. In fiscal year 2003, MDEQ District staff also reviewed 100% of the Title V semiannual monitoring and deviation reports and annual compliance certifications, conducted 989 level 2 inspections (305 at Title V sources), followed up on 1,403 citizen complaints, issued 545 Letters of Violation, and quality assured 58% of all emission inventory reports.

2. Are there any initiatives instituted by your management that recognize/reward your District permit staff for getting past barriers in implementing the Title V program that you would care to share?

MDEQ management has prioritized initial Title V permit issuance as the most important District Office output, which helps staff manage their workload. Management also uses informal recognition methods to help boost staff morale.

3. How is management kept up to date on permit issuance?

MDEQ has a statewide electronic Title V data management system which tracks permit issuance milestones in real time. MDEQ also tracks all District Office outputs on an annual basis, which includes Title V permit issuance, new applications, permit modifications, semiannual reports, annual compliance

certifications, etc. In addition, MDEQ maintains additional tracking information as necessary, such as a status chart of the remaining initial Title V permits that the District Offices update semiannually. MDEQ's long term data management goals include updating the system and integrating it with other program areas such as NSR/PTI, the emission inventory, and enforcement.

4. Do you meet on a regular basis to address issues and problems related to permit writing?

District and Central Office supervisors meet monthly to address and resolve permitting issues. MDEQ also has several permitting workgroups which meet regularly to develop and update guidance, and to address implementation issues.

5. Do you charge Title V fees based on emission volume? If not, what is the basis for your fees? What is your Title V fee?

MDEQ's annual air quality fee includes a facility charge plus an emissions charge. The facility charge is an annual flat rate fee, based on the facility category. A Category I facility is a major criteria pollutant source; the Category I fee is \$4,485. A Category II facility is a major hazardous air pollutant source or an NSPS source; the Category II fee is \$1,795. A Category II facility that is also a major criteria pollutant source pays the Category I fee. A Category III facility is an area source subject to the degreaser, chromeplater, dry cleaning, or other MACT; the Category III fee is \$250.

The emissions charge is \$45.25 for each ton of actual emissions, based on the emission inventory from two years preceding the billing year. Category III facilities do not pay an emissions charge. The emissions charge is capped at 4,000 tons per facility. For facilities emitting less than 4,000 tons, the emissions charge is capped at 1,000 tons per pollutant.

Municipal electric generating facilities pay according to the following schedule:

- *emissions more than 450 tons but less than 4,000 tons- \$24,816
- *emissions from 4,000 tons to 5,300 tons- \$24,816 plus \$45.25 per ton in excess of 4,000 tons
- *emissions more than 5,300 tons to 12,000 tons- \$85,045
- *emissions more than 12,000 but less than 18,000 tons- \$159,459

6. How do you track Title V expenses?

MDEQ maintains a separate Title V fee account. MDEQ may only fund Title V activities from the account. MDEQ staff track their Title V and non-Title V activities on an hourly basis. Indirect program costs are prorated between Title V and non-Title V program activities, based on the percentage of direct charges against each

program area to the total. MDEQ is required to submit an annual report to the Governor and the State Legislature that details the activities funded by the Title V fee account.

7. How do you track Title V fee revenue?

All Title V fees are kept in a separate account and tracked separately from Section 105 funds and general funds.

8. How many Title V permit writers does the agency have on staff (number of FTE's)?

As of July 2003, MDEQ has 72 District permit writers on staff; however these staff have additional responsibilities, as discussed in section G.1. Approximately 61% of these 72 FTEs are dedicated to Title V activities.

9. Do the permit writers work full time on Title V?

No.

a. If not, describe their main activities and percentage of time on Title V permits.

In addition to writing Title V permits, District Office staff have many other responsibilities, including: reviewing registration permit applications and annual renewals (Rule 208a registrations), performing inspections, implementing USEPA's compliance monitoring strategy, investigating citizen complaints, identifying/citing violations and initiating escalated enforcement actions, processing tax exemption applications, and reviewing source reports (including NSPS, NESHAP, emission inventory, environmental audits, and Title V reports). 61% of the District permit writers' time is spent on Title V activities.

b. How do you track the time allocated to Title V activities versus other non-Title V activities?

MDEQ staff track their Title V and non-Title V activities on an hourly basis. Indirect program costs are prorated between Title V and non-Title V program activities, based on the percentage of direct charges against each program area to the total.

10. Are you currently fully staffed?

As of July 2003, MDEQ has approximately 10 Title V permitting vacancies that are unfilled due to a hiring freeze.

11. What is the ratio of permits to permit writers?

The ratio of permits to District permit writers is approximately 1:7. However, the actual number assigned to each permit writer varies, based on the complexity of the sources and the additional staff workload.

12. Describe staff turnover.

The operating permit program staff turnover is currently low, at approximately 4%.

a. How does this impact permit issuance?

Turnover affects the issuance of those permits that were assigned to staff that leave. Hiring replacement staff can be difficult, particularly when a hiring freeze limits MDEQ's ability to fill the position.

b. How does the permitting authority minimize turnover?

MDEQ offers strong base salaries and benefits, flexible schedules, and part time schedules with full benefits.

13. Do you have a career ladder for permit writers? If so, please describe.

MDEQ's career ladder includes 3 staff levels and 2 expert levels that staff may attain by taking on additional responsibilities. In addition, most District Offices have 2 levels of management.

14. Do you have the flexibility to offer competitive salaries?

Because MDEQ's career ladder includes pay ranges within each level, MDEQ can offer competitive salaries.

15. Can you hire experienced people with commensurate salaries?

Yes; see G.14 above.

16. Describe the type of training given to your new and existing permit writers.

MDEQ provides comprehensive staff training, including annual all-District staff trainings that have included sessions on CAM, MDEQ's revised application forms and electronic permitting system, and permit writing and structure. MDEQ's Environmental Sciences and Services Division (ESSD) also provides training to staff, and District staff often attend ESSD's outreach training workshops. Staff have also attended national STAPPA permitting workshops.

MDEQ has developed a Title V operating manual, which includes standard, step-by-step permit issuance and public participation procedures, expert contact lists, general reference materials, and extensive implementation guidance. The implementation guidance includes such topics as identifying underlying applicable requirements, monitoring, and permit revisions. The manual is updated frequently and is available to staff in hard copy and on the MDEQ intranet.

MDEQ has developed standard permit document templates and detailed instructions for District permit writers, including the staff report (statement of basis), the permit shell, public notice documents, and source category and applicable requirement specific permit language. MDEQ also maintains examples of emissions unit permit tables that staff use as permit drafting models. In addition, MDEQ has developed flexible group permit tables for certain emission units that must meet specific rule provisions in lieu of obtaining an NSR/PTI. These documents are revised as necessary and provide up to date permit drafting tools for staff.

17. Does your training cover:

a. how to develop periodic and/or sufficiency monitoring in permits?

MDEQ maintains detailed permit drafting instructions; this guidance includes information regarding monitoring requirements. MDEQ also developed specific guidance, "Procedure for Evaluating Periodic Monitoring Submittals," April 11, 1997. In addition, MDEQ maintains examples of emissions unit permit tables that staff use as permit drafting models for common processes and applicable requirements, including monitoring.

b. how to ensure that permit terms and conditions are enforceable as a practical matter?

MDEQ's permit writer training includes ensuring that permit terms and conditions are enforceable as a practical matter. In addition, MDEQ has structured its permit format to clearly incorporate all applicable requirements, including operational restrictions, equipment parameters, averaging times, monitoring, recordkeeping and reporting. MDEQ maintains detailed permit drafting instructions; this guidance also includes information regarding practical enforceability. MDEQ's guidance, "Operational Memorandum Number 3: Procedure for Limiting Potential to Emit Below Major Source Thresholds Under the Renewable Operating Permit Program," revised February 14, 1997, includes information regarding practical enforceability. MDEQ also maintains examples of permit terms and conditions that are enforceable as a practical matter that staff use as permit drafting models.

c. how to write a Statement of Basis?

MDEQ's permit writer training includes information regarding how to write a staff report (statement of basis). In addition, the staff report template includes detailed instructions to District permit writers regarding the content of the report. The permit shell instructions also include explanations regarding what District permit writers should include in the Staff Report.

18. Is there anything that USEPA can do to assist/improve your training? Please describe.

MDEQ suggests that USEPA provide grants for within-State training workshops. The money would be used for hiring experts to provide the training. In addition, providing the training within-State would allow more staff to attend. This approach would be similar to the Lake Michigan Air Directors' Consortium-sponsored training, which uses USEPA grant resources to contract with training providers. Such workshops could include industry-specific training such as coating facilities, CAM training, etc.

19. How has the PA organized itself to address Title V permit issuance?

MDEQ has eight District offices and two Field Offices that are responsible for issuing Title V permits. When resources allow, NSR/PTI staff in the Central Office assist with the Title V permit backlog. The District and Field Offices report to the Field Operations Supervisor in MDEQ's Central Office. The Central Office and the Districts work together to implement the Title V program, developing rules, forms, guidance, etc.

20. Overall, what is the biggest internal roadblock to permit issuance from the perspective of Resources and Internal Management Support?

One of the biggest internal roadblocks to permit issuance is hiring freezes and filling permit position vacancies. One of the biggest external roadblocks to permit issuance is that there is no incentive for sources to obtain their permits. This leads to delays in obtaining information from sources and in getting sources to accept draft permit conditions. In addition, the complexity of air regulations, particularly the MACTs, slows the permit process.

Environmental Justice Resources

21. Do you have Environmental Justice (EJ) legislation, policy or general guidance which helps to direct permitting efforts? If so, may USEPA obtain copies of appropriate documentation?

MDEQ does not have an EJ program. Instead, Michigan relies on the part 70 public participation requirements as the basis for providing public access to the permitting process. In addition, MDEQ supplements the public participation process based on public interest, the nature of the source's operations, and whether the source is controversial. MDEQ considers such issues irrespective of whether the source is located in an EJ area. In such cases, MDEQ provides additional outreach as necessary, such as holding public information meetings. MDEQ also tries to be responsive to an interested party's particular needs and concerns, such as the location and accessibility of hearing locations, outreach methods, providing pre-stamped envelopes for submitting comments, etc.

22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities?

Public notices identify the permit writer as the MDEQ contact, as this is the person most knowledgeable about a particular source. Staff consult with their respective supervisors to address public outreach, set up hearings, etc. Although MDEQ doesn't have an EJ program, MDEQ has a contact person to answer EJ questions, provide information, and address national EJ concerns. MDEQ's press secretary is designated as the Department's EJ Officer.

23. Have you provided EJ training / guidance to your permit writers?

Because MDEQ does not have an official EJ program, this question is not really applicable. See the response to G.21 above. MDEQ provides training and detailed guidance to District permit writers regarding the Title V public participation procedures for all sources, regardless of whether a source is located in an EJ area.

24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., soci-economic status, minority populations, etc.)

Because MDEQ does not have an official EJ program, this question is not really applicable. See the response to G.21 above.

25. When reviewing an initial or renewal application, is any screening for potential EJ issues performed? If so, please describe the process and/or attach guidance.

Because MDEQ does not have an official EJ program, this question is not really applicable. See the response to G.21 above.

H. Title V Benefits

1. Compared to the period before you began implementing the Title V program, does the Title V staff generally have a better understanding of:
 - a. NSPS requirements? Yes
 - b. The stationary source requirements in the SIP? Yes
 - c. The minor NSR program? Yes
 - d. The major NSR/PSD program? Yes
 - e. How to design monitoring terms to assure compliance? Yes
 - f. How to write enforceable permit terms? Yes
2. Compared to the period before you began implementing the Title V program, do you have better/more complete information about:
 - a. Your source universe including additional sources previously unknown to you?

MDEQ has more complete information about Michigan's source universe; however, MDEQ has not identified previously unknown sources through the Title V program.
 - b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?

Yes
 - c. Your stationary source emissions inventory?

Because Title V fees are based on data from the emissions inventory, the inventory is now more accurate and more representative of sources' actual emissions.
 - d. Applicability and more enforceable (clearer) permits?

Yes. As a result of MDEQ's experience with Title V permits, MDEQ has also made changes to its NSR/PTI's, resulting in clearer NSR/PTI decisions and more enforceable permit conditions.

3. In issuing the Title V permits:

- a. Have you noted inconsistencies in how sources had previously been regulated (e.g., different emission limits or frequency of testing for similar units)? If yes, describe.

In issuing Title V permits, MDEQ found inconsistencies, particularly with minor NSR/PTI requirements. This is partly because NSR/PTI requirements are case by case decisions; however, many of the past NSR/PTI decisions were not well documented. This made it difficult for Title V permit writers to determine the basis for some requirements, such as whether a condition was established to limit PTE, was intended as a surrogate for monitoring (i.e., no visible emissions), etc.

- b. Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe.

The Title V process has made MDEQ aware of specific inconsistency issues, providing the opportunity to address and correct them. For example, MDEQ developed guidance to address some of the minor NSR/PTI monitoring issues, such as zero opacity monitoring provisions. MDEQ's model permits, permit templates, and extensive guidance for District permit writers and the regulated community all help assure consistency.

4. Based on your experience, estimate the frequency (never, occasionally, frequently, often) with which potential compliance problems were identified through the permit issuance process:

- a. prior to submitting an application- occasionally
- b. prior to issuing a draft permit- frequently
- c. after issuing a final permit- frequently

5. Based on your experience with sources addressing compliance problems identified through the Title V permitting process, estimate the general rate of compliance (never, occasionally, frequently, often) with the following requirements prior to implementing Title V:

- a. NSPS requirements (including failure to identify NSPS as applicable)- MDEQ occasionally finds NSPS compliance issues through the Title V process.
- b. SIP requirements- MDEQ occasionally finds SIP compliance issues through the Title V process

- c. Minor NSR requirements (including the requirement to obtain a permit)- MDEQ frequently finds minor NSR/PTI compliance issues through the Title V process.
 - d. Major NSR/PSD requirements (including the requirement to obtain a permit)- MDEQ occasionally finds major NSR/PSD compliance issues through the Title V process.
6. What changes in compliance behavior on the part of sources have you seen in response to Title V?
- a. increased use of self-audits?

Yes. This is prompted by both the Title V monitoring and reporting requirements, as well as Michigan's Audit Law.
 - b. increased use of environmental management systems?

To some extent. MDEQ has also developed a Clean Corporate Citizen program, which includes the use of environmental management systems.
 - c. increased staff devoted to environmental management?

More so for sources in the Clean Corporate Citizen program than a result of the Title V program.
 - d. increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)?

Yes.
 - e. increased resources devoted to compliance monitoring?

Yes.
 - f. better awareness of compliance obligations?

Yes.
 - g. other? Describe.
7. Have you noted a reduction in emissions due to the Title V program? Yes.

- a. Did that lead to a change in the total fees collected either due to sources getting out of Title V or improving their compliance? Yes.
- b. Did that lead to a change in the fee rate (dollars/ton rate)?

Independent of the fee inventory, Michigan reauthorizes its Title V fees every three to four years. Fees are adjusted as a part of the fee reauthorization, taking program costs into consideration. Michigan's current statutory fee structure is in effect through September 2005. As part of the reauthorization process, Michigan will need to ensure that the fees will be sufficient to cover the Part 70 program costs for the duration of the next fee cycle.

- 8. Has Title V resulted in improved implementation of your air program in any of the following areas due to Title V:
 - a. netting actions- somewhat. Netting issues are primarily addressed through the NSR program.
 - b. emission inventories- yes; Title V fees are based on emission inventory data, resulting in improved reporting and data. MDEQ has also developed a new electronic emission inventory system (MAERS) that is compatible with its electronic Title V management system.
 - c. past records management (e.g., lost permits)- yes. In order to address Title V records management, MDEQ updated its records management system for all source files.
 - d. enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance)- yes.
 - e. identifying source categories or types of emission units with pervasive or persistent compliance problems; etc. Yes; Title V activities can result in recommendations for compliance initiatives.
 - f. clarity and enforceability of NSR permit terms. Yes; as a result of the Title V program, MDEQ has revised its NSR/PTI format to be consistent with its Title V permit format. This format clearly organizes all permit requirements, including monitoring, recordkeeping, and reporting.
 - g. better documentation of the basis for applicable requirements (e.g., emission limit in NSR permit taken to avoid PSD; throughput limit taken to stay under MACT threshold)- yes, particularly with respect to minor NSR.
 - h. emissions trading programs- MDEQ's emission trading program has yet to be

approved into the SIP, and has not been fully implemented. MDEQ and USEPA have worked together to address the Title V/trading program interface.

- i. emission caps- yes.
 - j. other (describe)- the Title V program has resulted in improved communication between MDEQ's District Offices and the Central Office, due to MDEQ's joint approach to implementing the program.
9. If yes to any of the above, would you care to share how this improvement came about? (E.g., increased training; outreach; targeted enforcement)?

See details in H.8 above.

10. Has Title V changed the way you conduct business? Yes

- a. Are there aspects of the Title V program that you have extended to other program areas (e.g., require certification of accuracy and completeness for pre-construction permit applications and reports; increased records retention; inspection entry requirement language in NSR permits). If yes, describe.

There are many aspects of the Title V program that MDEQ has extended to other areas. For example, MDEQ's NSR/PTI application and permit format are similar to the Title V application and permit format. MDEQ is also consolidating a source's multiple NSR/PTI's into one comprehensive NSR/PTI. MDEQ addresses NSR/PTI monitoring requirements more thoroughly, eliminating when possible the need for title V periodic monitoring. MDEQ has begun to make NSR/PTI's and supporting information available on its website. MDEQ has also changed sources' records retention requirements from 2 to 5 years for all air program requirements. MDEQ has modified its emission inventory requirements by requiring sources to submit data for each unit (not just for the whole source), and requiring sources to certify inventory submissions. Compliance inspectors now rely on Title V permits as a key component of source inspections.

- b. Have you made changes in how NSR permits are written and documented as a result of lessons learned in Title V (e.g., permit terms more clearly written; use of a statement of basis to document decision making)? If yes, describe.

Yes; see section H.10.a above.

- c. Do you work more closely with the sources? If yes, describe.

MDEQ works more closely with sources as a result of the Title V permit issuance process. For example, MDEQ conducts thorough source inspections before drafting a Title V permit. In addition, the source gets an opportunity to review the draft permit before MDEQ issues it for public review. Once MDEQ issues a Title V permit, MDEQ conducts inspections a minimum of every other year on an emission unit by emission unit/condition by condition basis.

- d. Do you devote more resources to public involvement? If yes, describe.

The Title V permit issuance process includes a significant public review component. MDEQ has issued numerous guidances for District permit writers and the public regarding the Title V public participation process. MDEQ has also dedicated resources to ensure that Title V permits, public notices, supporting documents, etc., are available to the public via the Internet. For additional information on how MDEQ implements the public participation process, see section D.

- e. Do you use information from Title V to target inspections and/or enforcement?

Yes; MDEQ uses information from compliance certifications, semiannual reports, deviation reports, and drafting permits to target enforcement initiatives.

- f. Other ways? If yes, describe.

11. Has the Title V fee money been helpful in running the program? Have you been able to provide:

The Title V fee money is a very important component of MDEQ's air program.

- a. better training? Yes
- b. more resources for your staff such as CFRs and computers? Yes
- c. better funding for travel to sources? Yes
- d. stable funding despite fluctuations in funding for other State programs?

Yes, but there are also some fluctuations in Title V funding as a result of annual changes in the emissions inventory and as part of Michigan's Title V fee reauthorization process, which occurs every 3-4 years.

- e. incentives to hire and retain good staff?

The Title V program as a whole has expanded the number of employee positions and added career ladder options that had not previously existed. The Title V program has made jobs more interesting and challenging.

- f. are there other benefits of the fee program? Describe.

12. Have you received positive feedback from citizens?

No; citizen feedback has been limited to concerns regarding specific sources.

13. Has industry expressed a benefit of Title V? If so, describe.

Some sources have responded positively that the Title V permits have helped them better understand their applicable requirements. Some companies have commented that their experiences with Michigan's Title V program have been better than their experiences with other State programs.

14. Do you perceive other benefits as a result of the Title V program? If so, describe.

Another benefit of Title V has been the emission reductions many sources have made to avoid triggering Title V program applicability.

15. Other comments on benefits of Title V?

Another benefit of Title V is that the program requires sources to pay ongoing attention to their air program requirements. The Title V permits, particularly the monitoring, recordkeeping, and reporting provisions, help keep sources' air program requirements at the forefront.

The Title V program has also resulted in enhanced communication between Michigan and USEPA Region 5. This is due to the shared responsibilities necessary for program development and implementation, including the Title V program approval process as well as the permit issuance and review process. The Title V program has also fostered a positive working relationship between MDEQ and USEPA Region 5. MDEQ works with the Region on Title V program development and implementation. MDEQ keeps USEPA informed of its Title V activities, and regularly seeks USEPA input. These interactions have helped MDEQ and USEPA address programmatic issues early in the development of a project and allows the agencies to work together to develop solutions before Michigan finalizes a project. For example, MDEQ routinely shares draft guidance, form revisions, templates, and rule revisions with USEPA for comment during the development stage.

Good Practices not addressed elsewhere in this questionnaire

16. Are any of the practices employed that improve the quality of the permits, or other aspects of Title V program that are not addressed elsewhere in this questionnaire?

In July 2003, Michigan finalized rules allowing MDEQ to issue consolidated Title V and NSR/PTI permits. Although Michigan's NSR/PTI and Title V programs remain separate programs stemming from separate legislative and regulatory authority, MDEQ can now administratively combine NSR/PTI and Title V permits into one document. MDEQ developed this rule to address longstanding concerns regarding the interface between the two permit programs. Michigan's combined permit solution provides an innovative approach ensuring that NSR/PTI conditions cannot be changed or superseded by the Title V permit, while providing a clear and comprehensive integrated permit system.

USEPA assistance not addressed elsewhere in this questionnaire

17. Is there anything else USEPA can do to help your Title V program?

MDEQ suggests that one of the most important ways USEPA can support State Title V programs is to ensure that states maintain adequate funding. MDEQ supports USEPA Title V audits, including fee adequacy audits.

Although discussed in section A.12., MDEQ reiterated their concerns with drafting MACT permit conditions. The complexity of MACT standards makes them very "permit unfriendly", and continues to be a problem for District permit writers. It is very difficult to capture the MACT requirements in permits. MACT rules can be very voluminous, and applicability requirements are not always clear. In addition, MACTs offer numerous compliance options, as well as a multitude of general conditions, which can be difficult to incorporate into a permit. In one example, MDEQ noted that the Boat Manufacturing MACT, Subpart VVVV, which requires the use of multi-variable equations to assess compliance instead of straightforward emission limits that could be more easily incorporated into permits.

Appendix B

Title V Program Evaluation
Document Review Questionnaire

Michigan Department of Environmental Quality

November 5, 2004

Appendix B

A. Scope of review

To complete the Title V document review questionnaire, USEPA asked MDEQ to identify sources that met one or more of the following criteria. From the list MDEQ provided, USEPA choose five sources for the review, which are noted below.

1. A source subject to either a New Source Performance Standard or a Maximum Achievable Control Technology standard- Viking Energy Lincoln, SRN N0890, and Dart Container, SRN D8065
2. A source with a permit containing CAM, or a renewal permit if MDEQ has not issued a permit containing CAM- Dart Container, SRN D8065
3. A source with a permit that includes a nonapplicability determination in Part G of the permit- ANR Pipeline Company Central Charlton Compressor Station, SRN B7390, and Dart Container, SRN D8065
4. A source with a permit that includes an Appendix 2 schedule of compliance- Muskegon County Department of Public Works, SRN N6011, and Textron, SRN B1909
5. A source whose draft permit generated public comment- Viking Energy Lincoln, SRN N0890

During USEPA's on-site program evaluation in Lansing, Michigan on July 21 and 22, 2003, MDEQ had each source's Title V permit file available for USEPA to review. MDEQ also made copies of some of the documents so that USEPA could complete the file review from the Region 5 office. USEPA's responses to the document review questionnaire are based on a limited review of these specific Title V permit files, MDEQ's standard permit format and permit conditions, and MDEQ's standard permit application forms. Please note that some of the questions were very broad in scope, asking whether permits include all emission units, control equipment, applicable requirements, etc. USEPA did not perform an exhaustive permit review for each source, which could have entailed additional reviews of Michigan's emissions inventory, New Source Review files, enforcement files, etc., as well as on-site source visits.

B. What To Look For in Applications

The following responses address MDEQ's application form requirements, and refer to the numbering system used for the current forms. The chart at the end of Section B notes whether sources addressed these requirements in the application submittals. The source applications summarized in the chart used previous versions of the forms.

Do original and renewal applications in general:

Michigan Title V Program Evaluation Report, November 5, 2004

1. List the non-exempt insignificant emissions units (IEUs), information necessary to determine applicability of, or to impose, any applicable requirement, or to evaluate the fee amount?

Sources are required to identify IEUs that are based on size or production rate on form EU-001. IEU status is not allowed for any unit that is subject to a process specific applicable requirement- such emission units must be identified on form EU-003. Sources must also identify all applicable requirements on forms AR-001 and AR-002. In addition, small emission units subject to certain New Source Review (or PTI) exemption provisions that include emission and/or throughput restrictions must be identified on form EU-002. Together, these forms ensure that sources submit information necessary to determine all applicable requirements.

Note that MDEQ bases fee calculations on the State emissions inventory, not Title V applications.

2. Contain the following emissions-related information:
 - a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants and additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees?

The emissions information requirements are met through annual Michigan Air Emission Reporting System (MAERS) reports, and include emission information for each unit and process at a source. Form EU-003 references the MAERS report as a requirement of a complete Title V application. The emissions inventory information is also used as the basis for fee calculation.

- b. Identification and description of all points of emissions in sufficient detail to establish the basis for fees and applicability?

Together, the emissions information from MAERS, along with MDEQ's Title V emission unit, flexible group, applicable requirement, and monitoring forms establish the basis for fees and applicability.

- c. Identification and description of air pollution control equipment and compliance monitoring devices or activities?

Form EU-003 identifies control devices. Form AR-002 identifies existing compliance monitoring, testing, recordkeeping and/or reporting activities. Forms MS-001, MS-002, and MS-003 identify proposed monitoring and recordkeeping, testing and sampling, and reporting.

3. Contain the following air pollution control requirements:

- a. Citation and description of all applicable requirements?

Forms AR-001 and AR-002 identify all applicable requirements, including citations.

- b. Description of or reference to any applicable test method for determining compliance with each applicable requirement?

Form AR-002 identifies applicable test methods. Sources can also propose test methods on form MS-002.

4. Include an explanation of any proposed exemptions from otherwise applicable requirements?

Forms AR-001 and AR-002 allow the applicant to propose changes to or deletions of applicable requirements. The source must include acceptable justification for any changes or deletions. If a source wishes to have a non-applicable requirement specifically identified as non-applicable in the Title V permit, the source may submit Form AI-001 to explain and justify the request.

5. Contain a compliance plan that contains all the following:

- a. A description of the compliance status of the source with respect to all applicable requirements?

Forms AR-001 and AR-002 require the source to identify compliance status for each applicable requirement.

- b. A description as follows:

- i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements?

Forms AR-001 and AR-002 require the source to identify whether it is in compliance and will continue to comply with each applicable requirement.

- ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis?

Forms AR-001 and AR-002 require the source to identify whether it will meet future requirements on a timely basis.

- iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements?

Forms AR-001 and AR-002 require sources to submit a narrative description of how the source will achieve compliance on Form AI-001 if the source did not identify that it would be in compliance.

c. A compliance schedule as follows:

- i. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance? Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance.

Forms AR-001 and AR-002 require sources to submit a narrative description of how the source will achieve compliance, including a schedule of compliance, on Form AI-001 if the source did not identify that it would be in compliance at the time of permit issuance.

- ii. A compliance schedule that resembles and is at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.

Forms AR-001 and AR-002 require the source to include compliance schedule information on Form AI-001. Rule 119(a) requires that a schedule of compliance resemble and be at least as stringent as that contained in any judicial consent decree or administrative order.

- d. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation?

Forms AR-001 and AR-002 require schedule of compliance information on Form AI-001. Rule 119(a) requires that a schedule of compliance include semiannual certified progress reports.

6. Include a requirement for compliance certification that contains:

- a. A certification of compliance with all applicable requirements by a responsible official?

Forms AR-001 and AR-002 require the source to identify compliance status for each applicable requirement. Form C-001 requires the responsible official to certify that the entire application (including forms AR-001 and AR-002) is true, accurate, and complete.

- b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods?

Form AR-002 requires the source to identify all applicable monitoring, recordkeeping, testing, and reporting requirements, and also requires the source to identify compliance status for each such requirement. Form C-001 requires the responsible official to certify that the entire application (including form AR-002) is true, accurate, and complete.

The applicant can also use forms MS-001, MS-002, and MS-003 to propose monitoring and recordkeeping, testing and sampling, and reporting.

- c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act?

Form EU-003 requires the source to identify CAM applicability. A CAM plan must be submitted on form AI-001. Form AR-002 requires the source to identify compliance status for each applicable requirement, including CAM.

What to Look for in Applications	Muskegon Co. Dept. of Public Works	Textron	Dart Container	ANR Pipe-line	Viking
1. Non-exempt insignificant emission units	No	Yes	Yes	Yes	Yes
2a. All emissions of regulated pollutants sufficient to determine applicable requirements	Yes	Yes	Yes	Yes	Yes

What to Look for in Applications	Muskegon Co. Dept. of Public Works	Textron	Dart Container	ANR Pipe-line	Viking
2b. Description of each emissions point to establish basis for fees and applicability	Yes	Yes	Yes	Yes	Yes
2c. Identification and description of control equipment and monitoring devices or activities	Yes	Yes	Yes	Yes	Yes
3a. Cite and describe all applicable requirements	Yes	Yes	Yes	Yes	Yes
3b. Reference to applicable test method to determine compliance with each applicable requirement	N/A	Yes	Yes	N/A	No
4. Explanation of exemptions from otherwise applicable requirements	No	No	No	Yes	No
5a. Description of compliance status with respect to all applicable requirements	No	Yes	Yes	Yes	Yes
5bi. A statement ensuring continuing compliance	N/A	Yes	Yes	Yes	Yes
5bii. For applicable requirements that become effective during the permit term, a statement that the source will comply on a timely basis	Yes	Yes	N/A	Yes	N/A
5biii. A description of how the source will comply with requirements with which it is not complying at the time of issuance	Yes	N/A	N/A	N/A	N/A
5ci. A compliance schedule, including required actions and milestones	Yes	No	No	No	No

What to Look for in Applications	Muskegon Co. Dept. of Public Works	Textron	Dart Container	ANR Pipe-line	Viking
5cii. A compliance schedule at least as stringent as any consent decree or administrative order	Yes	N/A	N/A	N/A	N/A
5d. Schedule of progress reports no less frequently than every 6 months	Yes	N/A	N/A	N/A	N/A
6a. Certified compliance with all applicable requirements by responsible official	No	Yes	Yes		Yes
6b. Methods used to determine compliance, including monitoring, records, reporting, and test methods	N/A	Yes	Yes		Yes, except test methods
6c. Statement of compliance with applicable enhanced monitoring and compliance certification requirements	N/A	N/A	No, but submittal was pending	N/A	N/A

C. What To Look For In Permits

The responses below reference the numbering system used in MDEQ's current permit template. Please note that the 5 permits included in this evaluation use an older version of the State's permit template; therefore, the general condition and appendix citations may be different in those permits.

1. General permits only - Are the eligibility criteria clear? Attach.

Not applicable. Michigan has not issued any general Title V permits.

2. Are all the emission units at the sources addressed in the permit or, if multiple permits are issued, are all the emission units addressed through all the permits that apply to the source? (Note: for nonmajor sources, the T5 permit(s) need only include the emissions units that cause the source to be subject to the part 70 program.)

MDEQ's permit format includes an applicable requirement table for each unit (or process). Emission Units with common applicable requirements are identified as "flexible groups". The flexible groups allow MDEQ to list common applicable requirements just once in the permit, instead of having to repeat the requirements for each unit. To make the permit easier to navigate, the permit includes unit and flexible group summary tables as well. The unit summary table lists every unit in the permit, when it was installed or modified, any control device descriptions, and the associated part of the permit. The unit table also identifies whether the unit is part of any flexible groups. The flexible group table identifies the emission units included in each flexible group as well as the associated flexible group part of the permit. Note that permits typically include only emission units that are subject to process specific applicable requirements². The staff report lists insignificant emissions units that are exempted because of size or production rate, and that do not have any process specific applicable requirements.

MDEQ does not issue separate permits to a single source, but may issue Sectioned permits. This allows a source to have separate responsible officials for different areas of the source (provided there is more than one person that meets the definition of responsible official). Of the 5 permits included in the review, Dart Container and Muskegon County were Sectioned permits.

The 5 permits included in this evaluation address emission units in accordance with the format described above. For example, the Textron permit identifies 19 emission units. There are 9 unit-specific permit tables, and 2 flexible group tables that address the other 10 emission units. The staff report lists 9 additional emission units that are not subject to any process specific applicable requirements.

3. Are all applicable requirements included in the permit or, if multiple permits are issued to one source, are all the applicable requirements addressed through all the permits that apply to that source? (Note: for nonmajor sources, the T5 permit need only include "all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program") (Identify any missing requirements.)

MDEQ uses a standard permit template for all Title V permits. All general permit conditions are included in Part A. Each source-wide, unit, and flexible group table includes subparts for emission limits, material limits, process/operational restrictions, design/equipment parameters, testing/sampling, monitoring/recordkeeping, reporting, stack/vent restrictions, and any other requirements. In addition, the permit

²General requirements applicable to the entire source are included in Part A of the permit. If any generally applicable requirements necessitated additional requirements, such as monitoring, for a particular unit, then the permit would include a table for that unit.

includes standard appendices for abbreviations and acronyms; a schedule of compliance; any additional detailed monitoring, recordkeeping, testing procedures, and reporting requirements; a list of incorporated PTI's; emission calculations; and any Acid Rain permit or NOx Budget permit. MDEQ does not issue separate permits to a single source, but may issue Sectioned permits. Sectioned permits follow the same format as described above for each part of the permit.

The 5 permits included in this evaluation include applicable requirements in accordance with the format described above. The permits address numerous types of requirements, including: SIP limits/standards, PTI/PSD/nonattainment NSR requirements, PTI exemption provisions that provide enforceable limits, CAM, NSPS and Section 111(d), MACT, State toxics requirements, etc.

- a. General permits only - Are there sources that are authorized to operate under a general permit that have source specific requirements not included in the general permit (or in another permit, if multiple permits are issued) (e.g., NSR/PTI terms; compliance schedules).

Not applicable. Michigan has not issued any general Title V permits.

- b. Are all SIP requirements applicable to the sources included in the permit?

All 5 permits included in the review incorporate SIP requirements. General SIP requirements are in Part A of the permit. Specific requirements are included in the appropriate source-wide, unit, or flexible group tables of the permit. Examples of SIP requirements include: opacity limits, open burning restrictions, volatile organic compound requirements, particulate matter requirements, sulfur dioxide requirements, general control equipment requirements, and general testing requirements.

- c. If the applicable MACT or NSPS includes multiple emission limits (e.g., depending on fuel type), compliance options, monitoring, recordkeeping, or reporting requirements, or other decision trees, does the permit specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?

Where applicable requirements provide multiple options, MDEQ's permits include the compliance requirements necessary for each option. For example, ANR Pipeline includes options for a control device as provided by MDEQ's VOC SIP and a consent order. The permit includes methods for determining compliance, including monitoring and recordkeeping, for each control device option. The Muskegon County permit also includes multiple options pursuant to the Section 111 requirements for landfills. The permit includes detailed monitoring, recordkeeping, and reporting for determining compliance as required by the

underlying applicable standards. However, where a source has selected a single compliance option, MDEQ may only identify that compliance option in the permit.

- d. Does the permit clearly specify the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with required monitoring?

MDEQ's permit format includes specific testing/sampling and monitoring requirements for all source-wide, flexible group, and emission unit tables. In addition, an update to the Title V permit template includes a reference to the associated monitoring/testing method for each emission and material limit within the permit. This reference helps to clearly identify the associated monitoring for each limit. Any additional details regarding monitoring, recordkeeping, testing, and emission calculations are included in the permit appendices. For additional information regarding monitoring, see C.6. below.

4. Does the permit describe the origin and authority of each term and condition?

Every permit condition, including standard permit conditions, emission limits and standards, monitoring, recordkeeping, reporting, etc. includes a citation to the underlying applicable State or Federal regulation. In addition, MDEQ's new consolidated Title V and NSR/PTI source-wide permit format clearly identifies the conditions that are also part of the NSR/PTI.

5. Are the following standard terms and conditions included in the permit (or, if multiple permits are issued, are these terms and conditions included as applicable to the source overall):

Although MDEQ does not issue separate permits to a single source, the Department may issue Sectioned permits. In such cases, the standard permit conditions are placed in each Section of the permit to clearly denote that these requirements are applicable to the entire source.

Severability clause (§70.6(a)(5)): If any part of this permit is declared invalid, the remainder of this permit shall remain in effect and enforceable. **Yes in General Condition 6.**

Duty to comply (§70.6(a)(6)(i)): The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. **Yes in General Condition 1 and on the cover page.**

Need to halt or reduce activity not a defense (§70.6(a)(6)(ii)). It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. **Yes in General Condition 2.**

Modification, revocation, etc for cause (§70.6(a)(6)(iii)). The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. **Yes in General Condition 3.**

No property rights (§70.6(a)(6)(iv)). The permit does not convey any property rights of any sort, or any exclusive privilege. **Yes in General Condition 8.**

Duty to provide information (§70.6(a)(6)(v)). The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality. **Yes in General Condition 5.**

Inspection and entry (§70.6(c)(2)). Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

- (i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
- (ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
- (iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

Yes in General Condition 4.

Payment of Fees (§70.6(a)(7)). The source must pay fees to the permitting authority consistent with the approved fee schedule. **Yes in General Condition 7.**

Changes provided for in permit (§70.6(a)(8)). No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit. **Yes in General Condition 42.**

Certification of all documents and reports (§70.5(d) and 70.6(c)(1)). Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. **Yes in General Condition 18.**

Compliance certification (§70.6(c)(5)). A schedule for submission of compliance certifications to the permitting authority and EPA during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority. Compliance certifications shall include:

- (i) The identification of each term or condition of the permit that is the basis of the certification;
- (ii) The compliance status;
- (iii) Whether compliance was continuous or intermittent;
- (iv) The method(s) used for determining the compliance status of the source, currently and over

the reporting period consistent with required monitoring; and

(v) Such other facts as the permitting authority may require to determine the compliance status of the source;

Yes in General Condition 20.

Permit term (§70.6(a)(2)). Does the permit expire at the end of 5 years, or does it expire upon renewal? ***The expiration date, which is 5 years from the date of issuance, is on each page of the permit. Rule 217(1)(a) further provides that the permit term continues past the expiration date if the source has submitted a timely and complete renewal application but MDEQ has not yet acted on it.***

Federally-enforceable requirements (§70.6(b)). All terms and conditions of this permit, including any provisions designed to limit potential to emit, are enforceable by EPA and citizens under the Clean Air Act unless they are specifically designated as not federally enforceable. Note: Terms and conditions must be designated as not federally enforceable (i.e. "State only") if they are not required under the Clean Air Act or under any of its implementing regulations. **Yes in General Condition 1.**

Permit shield (§70.6(f)).¹

(a) Compliance with permit conditions shall be deemed compliance with [identification of applicable requirements included in and specifically identified in the permit] as of the date of permit issuance.

(b) The following requirements have been determined not to apply to the permittee as of the date of permit issuance for the reasons specified [permit must include the reasons for the determination of inapplicability or a concise summary thereof].

(c) Nothing in this permit shall alter or affect the following (optional):

(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of EPA to obtain information from a source pursuant to section 114 of the Act.

Yes in General Condition 27.

Reopenings for Cause (§70.7(f)). The permit shall be reopened and revised under any of the following circumstances :

(i) Additional applicable requirements under the Act become applicable to the permittee with a remaining permit term of 3 or more years. Reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No reopening is required if effective date of the requirement is later than the date of permit expiration, unless the original permit or any of its terms and conditions has been administratively extended.

(ii) Additional requirements (including excess emissions requirements) become applicable to an

¹Not all states require a permit to contain the permit shield. Changes under the following provisions are not entitled to the shield: operational flexibility changed under § 70.3(b)(12)(i) and (ii); off permit changes under § 70.3(b)(14); certain administrative amendments under § 70.7(d); and minor permit modifications under § 70.6(e) (including group processing).

affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or EPA determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other permit terms or conditions.

(iv) The Administrator or permitting authority determines that the permit must be revised or revoked to assure compliance with applicable requirements.

(v) [Other circumstances identified in the permit as cause for reopening the permit occur prior to expiration of the permit.]

Yes in General Condition 34. The requirement for reopening to be accomplished within 18 months is not specified in the permit because it is an obligation of the permitting authority and not the permittee. This 18 month reopening requirement is in Rule 217(2)(b) and Rule 210(14). The permit also clarifies that, consistent with the reopening requirement for material mistakes or inaccurate statements, MDEQ requires reopening if information required by any applicable requirement was omitted.

6. Does the permit contain all monitoring required by applicable requirements (including CAM)?

MDEQ's permit format includes specific testing/sampling and monitoring requirements for all source-wide, flexible group, and emission unit tables. In addition, each emission and material limit table includes a reference to the associated monitoring/testing method within the permit. This reference helps to identify the associated monitoring for each limit. Appendix 3 includes any additional detailed monitoring requirements, such as specific procedures, methods or specifications. Appendix 4 includes any additional detailed recordkeeping requirements, including specific formats and procedures. Appendix 5 includes any additional detailed testing procedures, including test plans. Appendix 7 includes any additional detailed emission calculation requirements.

The 5 permits included in this evaluation address monitoring requirements in accordance with the format described above². The permits generally include monitoring, testing, and recordkeeping provisions as required by the underlying applicable requirements, CAM, and periodic monitoring. For example, the Viking Energy permit includes monitoring requirements from NSR/PTI's and NSPS subpart Db, as well as periodic monitoring for SIP opacity requirements and a sulfur dioxide PSD emission rate.

For information regarding CAM, see the response to C.8 below.

²MDEQ revised its permit format to link monitoring references to each emission limit in July 2003. The 5 permits included in this review use an older format and did not include these internal permit references.

7. Does the permit include periodic monitoring requirements?

MDEQ's permit format for monitoring requirements, including periodic monitoring, is described in C.6. above. District permit writers refer to MDEQ's April 11, 1997 guidance, "Procedure for Evaluating Periodic Monitoring Submittals," for pollutant-specific and emission unit-specific rationale for different monitoring scenarios. MDEQ also maintains examples of emissions unit permit tables that staff use as permit drafting models; these models may contain examples of periodic monitoring. The 5 permits included in this evaluation generally include periodic monitoring in accordance with the format and guidance as described. The permits include periodic monitoring for the following types of applicable requirements: PSD permit emission rates, NSR/PTI requirements, and SIP requirements.

8. Does CAM apply to any emissions units at this source? If yes does the monitoring in the permit meet CAM requirements including:

As noted in section A above, Dart Container was chosen as part of the Title V document review because its renewal permit, issued in May 2003, was the first permit addressing CAM that MDEQ issued. Dart Container manufactures foam containers. Three steam boilers are used to destroy captured pentane emissions from 2 polystyrene foam processes. MDEQ's staff report for Dart Container's renewal permit did not address CAM; however the permit itself includes CAM requirements. Since MDEQ issued this permit, the Department has developed additional CAM guidance materials for District permit writers, and has included CAM language in the staff report template and extensive directions in the Title V permit template instructions for incorporating CAM requirements in a permit.

a. indicator(s) to be monitored;

The permit includes monitoring flow rate and pentane concentration to determine pentane capture efficiency, and monitoring temperature of boiler flue gas to determine pentane destruction efficiency.

b. the means or device to be used to measure the indicators;

Table E-1.1, Table E-1.2, Table F-1.1, Appendix 1-3, and Appendix 1-7 include information regarding the flow rate, pentane concentration, and temperature monitors.

c. performance requirements;

The flow rate, pentane concentration, and temperature monitors provide data that are representative of the emissions or parameters being monitored, and include requirements for the placement of the monitors. The permit requires that the

pentane concentration monitor be calibrated and operated in accordance with manufacturer's specifications. The permit also includes requirements regarding the frequency of the monitoring as well as the data collection procedures. See Table E-1.1, Table E-1.2, Table F-1.1, Appendix 1-3, and Appendix 1-7 of the permit.

- d. means by which an exceedance or excursion is defined;

The permit includes monitoring and emission calculations to address capture efficiency, and a temperature level to determine proper operation of the boilers.

- e. obligation to conduct the monitoring and fulfill the other obligations specified in §§ 64.7 through 64.9;

The permit requires the source to conduct the monitoring, as discussed above. In addition to the specific monitoring requirements, Part A, General Condition 4 requires the source to properly maintain and operate all control equipment. The permit requires that the monitoring systems be operated continuously, and that the operation of the control system be checked hourly. The permit also includes reporting and recordkeeping requirements pursuant to 40 CFR 70.6(a)(3). See Table E-1.1, Table E-1.2, Table F-1.1, Appendix 1-3, and Appendix 1-7.

- f. if appropriate, a minimum data availability requirement for valid data collection for each averaging period and, if appropriate, a minimum data availability requirement for the averaging periods in a reporting period;

Flow rate, pentane concentration, and flue gas temperature monitoring is required on a continuous basis.

- g. if the monitoring requires installation, testing or final verification of operational status, is there an enforceable schedule with milestones consistent with § 64.4(e); and

The monitoring systems are in place.

- h. is CAM plan not just attached to the permit? [Note: answer yes to this question if the permit correctly includes monitoring based on the CAM plan and no if the permit simply incorporates the CAM plan itself.]

The permit includes monitoring based on CAM and does not incorporate the CAM plan.

9. Does the permit contain adequate record keeping requirements, such as:
- a. the date, place as defined in the permit, and time of sampling or measurements for all monitoring;
 - b. the date(s) analyses were performed;
 - c. the company or entity that performed the analyses;
 - d. the analytical techniques or methods used;
 - e. the results of such analyses; and
 - f. the operating conditions as existing at the time of sampling or measurement?

General Condition 16 includes all of the above recordkeeping requirements. In addition, the permit format includes specific recordkeeping provisions for source-wide, flexible group, and emission unit requirements. Appendix 4 includes additional detailed recordkeeping requirements as necessary, such as approved formats and procedures. Appendix 7 includes any additional detailed emission calculation requirements.

The 5 permits included in this evaluation generally address recordkeeping requirements in accordance with the format described above. The permits include associated recordkeeping provisions with monitoring and testing requirements, assuring that each source keeps written documentation of its monitoring activities. For example, many permit conditions require the source to “monitor and record” specific emissions or parameters (emphasis added), to keep written logs of operational activities, throughput, fuel content, etc., and to record calculations in accordance with specified frequencies.

10. Does the permit require the retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application?

Yes, General Condition 17 requires the retention of records for 5 years from the date of the monitoring sample, measurement, report, or application.

11. Does the permit specify a specific time frame for completing the corrective action?

MDEQ's standard permit format includes schedule of compliance requirements in Appendix 2. The Appendix 2 format ensures that the schedule of compliance identify remedial measures, required actions, progress reports, and milestone dates for noncomplying sources. As noted in section A above, the Muskegon County and Textron permits were chosen as part of the Title V document review because the permits include a schedule of compliance. The Muskegon County solid waste facility did not install a gas collection and control system, as required by 40 CFR Part 60, Subpart Cc. The schedule of compliance in Appendix 1-2 includes a detailed list of corrective actions, milestone dates for each action, and progress

report deadlines for installing and monitoring the control equipment. The Textron facility has a schedule of compliance in Appendix 2 because of nuisance rule violations for particulate fallout on neighboring properties. The schedule of compliance includes a requirement to install and operate an ambient air particulate sampler by a specific date, development and submittal of a remedial action plan by a certain date, and quarterly progress reports detailing ongoing actions to resolve fallout.

12. Does the permit specify a specific time by which any new monitoring must be operational?

The Muskegon County permit schedule of compliance specifies milestone dates for installing, operating, and monitoring the control system. The permit tables include additional monitoring requirements pursuant to 40 CFR Part 60, Subpart Cc. The Textron permit schedule of compliance specifies the date by which the ambient air particulate sampler must be operational.

13. Is credible evidence buster language included in the permit?

MDEQ's permit format and identification of associated compliance requirements try to avoid using "credible evidence buster" language. An example of potentially problematic language would be "compliance with the [limit/standard] shall be determined by [test method]."³ MDEQ's permit format is structured to list monitoring requirements, without using such language in its permits. Some examples include:

- Permittee shall perform visual inspections for opacity
- Permittee shall monitor and record pressure drop across the baghouse
- Permittee shall record the liquid flow rate to the scrubber

14. Does the permit allow the source to violate an emission limit for some amount of time before it is a violation? For example, does the permit say it is not a violation to exceed a limit less than 5% of the time.

MDEQ's Title V permits do not provide for any blanket allowances for exceeding a limit.

³Note that the underlying applicable requirements may include possibly problematic language, which the Title V program has no authority to change. This usually involves federal standards, such as MACT or NSPS. However, the federal standards do include general credible evidence requirements which are applicable to individual standards and requirements.

15. Are monitoring plans and records for this permit accessible to the public?

All permits, staff reports, and current public notices are available on the Internet. The public may request additional information regarding a source, such as operation and maintenance plans, semiannual reports, and annual compliance certifications, from MDEQ.

16. Did the permit go out to public notice?

MDEQ has step-by-step public participation procedures for permit writers to ensure that permits meet the public notice requirements. All 5 permits went through the public notice and comment process, and this is documented in MDEQ's permit tracking system. In addition, with the exception noted below, the staff report for each permit identifies the public comment period, notes whether any comments were received, includes a response to comments, and documents any changes made to the permit as a result of the comments. The staff report for ANR Pipeline did not identify the dates of the public comment period.

17. Were the affected State(s) (if any) notified of this permit?

MDEQ has step-by-step public participation procedures for permit writers to ensure that permits meet the affected State review requirements. MDEQ notifies affected States via e-mail, using the same 30 day public comment notice MDEQ e-mails to USEPA. MDEQ maintains a list of affected State contacts who have been designated by each of the affected States. MDEQ provides notice to (the) State(s) bordering the Michigan county where the Title V source resides, regardless of whether the source is over 50 miles from that State. MDEQ's affected State contact list identifies each of these Michigan counties, the MDEQ District Offices with jurisdiction over these counties, and the associated affected State(s).

Of the 5 sources included in the file review, 2 were located in a county that triggers affected State review. The Muskegon County and Textron permits were noticed to Wisconsin, as verified by reviewing the USEPA and affected State email notices for these sources.

D. What To Look For In the Statement of Basis

1. Does the permit's Statement of Basis justify how the monitoring in the permit will assure compliance including a justification if no additional monitoring was required?

District permit writers draft a staff report for each permit. MDEQ uses a standard report template, which District permit writers populate with source specific information including general source information, emissions summary, regulatory analysis including a list of all past PTIs, streamlining analysis, insignificant activities

listed in the permit application that are not subject to any process specific requirements, a summary of any requirements under dispute by the permittee, compliance status, response to comments, and changes made to the final permit as a result of comments or through the modification process. The staff reports reviewed during this program evaluation did not contain a justification for how the monitoring requirements that were not taken directly from an applicable requirement would assure compliance with the limit. However, MDEQ has recently revised its staff report template to ensure that the report addresses monitoring issues, including source specific requirements such as CAM, as well as general monitoring information.

MDEQ's permits clearly reference the origin and authority for each monitoring condition, and identify whether the monitoring requirements stem from the underlying applicable requirement or are additional Title V monitoring. Underlying monitoring conditions cite the appropriate applicable requirement, such as a PTI, NSPS, SIP rule, etc. MDEQ specifically cites Michigan's Title V monitoring regulations, Rule 213(3), for each instance of additional monitoring. MDEQ has also revised its permit format so that each emission limit cross references the associated monitoring requirements detailed elsewhere in the permit. This format clearly identifies the associated monitoring for each limit. In addition, MDEQ's April 11, 1997 guidance, "Procedure for Evaluating Periodic Monitoring Submittals," provides pollutant-specific and emission unit-specific rationale for different monitoring scenarios. MDEQ believes that its monitoring guidance, the underlying applicable requirement citations and references in the permits, and the staff report additions are sufficient for addressing the basis of the monitoring.

The 5 staff reports included in the file review generally followed the staff report structure described above. The basic template information was completed for all reports, although the level of detail varies. As noted in section C.8 above, the staff report for Dart Container did not include a discussion of CAM. However, this was the first CAM permit that MDEQ issued. MDEQ has since developed additional CAM guidance materials for District permit writers, and has included specific CAM language in the staff report template and provided extensive instructions on incorporating CAM requirements in the Title V permit. The 5 staff reports were written before MDEQ's recent monitoring additions to the staff report template.

